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South Dakota Courts
The State of the Judiciary
and
1990 Annual Report of the South Dakota Unified Judicial System

Chief Justice
Robert A. Miller

January 1991

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State of the South Dakota Judiciary

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STATE OF THE JUDICIARY

Governor Mickelson, Legislators, Constitutional Officers, and fellow Justices:

I am departing from the precedent established by my predecessors . . . I will not be making an oral "State of the Judiciary" message to a Joint Session of the Legislature this year. Rather, I have concluded that it would be best to present my "State of the Judiciary" message to you in written form, as part of the Annual Report of the South Dakota Unified Judicial System. I sincerely hope that in future years, if I make the appropriate request, I will be afforded the privilege of addressing you personally.

It is important for the Chief Justice to use whatever media serves him best to present his goals and objectives and to remind everyone of the importance and independence of the judiciary. As United States Chief Justice John Marshall once said:

> The judicial department comes home in its effects to every man's fireside; it passes on his property, his reputation, his life, his all. Is it not to the last degree important, that he should be rendered perfectly and completely independent, with nothing to influence or control him but God and his conscience?

So it is with the judiciary in South Dakota and we must continually be vigilant of that independence.

I am pleased to report to you that the South Dakota judiciary continues to be strong, busy and more productive than at any time in our history. Although we consider ourselves to be the most modern, and arguably the best, judicial system in the nation, we cannot rest on our laurels; our goal must be that of continued improvements, continued progress, and continued

efficiencies. As I will articulate later in this message, we are taking measures, many in cooperation with the executive and legislative branches of our government, to fortify our goal of judicial excellence in this state.

JUDICIAL CHANGES

First, we regret the retirement of our fine colleague, Justice Robert E. Morgan, but wish him happiness and good health in his well-deserved retirement. I know and trust that the Governor will fill Justice Morgan's vacancy promptly, with a person well-qualified to sit on the highest court of our state. Until a new justice is selected and available to begin service, I have appointed one of our finest circuit judges, E.W. Hertz of Olivet, as an acting justice to sit with our Court. This is the third occasion Judge Hertz has assisted us in such a position, and I am most pleased to have a man of his capabilities and talents to assist us in these important times.

As you may know, we have several changes at the circuit court level. In the Sixth Circuit, Judge Marvin S. Talbott of Winner has now retired. He had a most distinguished career as a county judge, district county judge and circuit judge. The electorate of the Sixth Circuit selected Max A. Gors of Pierre to succeed Judge Talbott, and Judge Gors has moved to Winner to assume his judicial duties.

Presiding Judge Marshall Gerken of the Fourth Circuit has also retired. He, too, has been a prominent member of the South Dakota Bar and judiciary for many years. Attorney Lee Anderson of Mitchell has been elected to succeed Judge Gerken.

In the Fifth Circuit, Law-Trained Magistrate Larry Lovrien of Aberdeen defeated incumbent Circuit Judge Vernon Evans of Redfield. Judge Evans had been on the circuit bench for twenty years. Judge Lovrien had been a law-trained magistrate since 1977.

YEAR OF RECONCILIATION

I applaud Governor Mickelson for his Year of Reconciliation, and the Native American community for its patience and willingness to work on this most important reconciliation effort.

We in the judiciary also feel there is much that can be done to open lines of communication and promote better understanding between the state courts and the tribal courts. In the spirit of this reconciliation effort, I have written the chief judges of all the tribal courts in this state indicating that I would be pleased to host a joint judicial conference between the tribal judges and state judges this spring. I have requested their suggestions regarding the agenda; their response has been superb. The conference will probably be held in May.

A similar conference was held several years ago at the behest of then-Chief Justice Roger Wollman. That conference was called shortly after the implementation of the Indian Child Welfare Act. As a circuit judge, I attended that conference and believe many great things flowed from it. I am confident this conference will be equally successful.

BUSINESS OF THE COURT

The courts of this state have been very busy. Unfortunately, the case load escalation has out-distanced our

dwindling resources. I suggest that the judiciary has done a tremendous job in managing its personnel and financial resources. Detailed information and statistics are included in the Annual Report of the South Dakota Unified Judicial System which follows this message.

INTERIM COMMITTEES

This past summer several judges, as well as judicial employees, served on a number of executive and legislative branch interim committees: the South Dakota Juvenile Justice System Study, Out-of-Home Placement Study, Assessment of the South Dakota Juvenile Justice System and Action Plan for 1991, South Dakota Governor's Task Force on Children's Justice Report, Report of the 1991 South Dakota Corrections Commission, and the Long-Range Prison Plan.

We have worked closely with these special committees. I do think it is important to continue our joint planning efforts; however, I do not see a need to necessarily continue all the committees.

I must remind you that our FY92 budget request was not impacted to address the various committee recommendations. If you wish to implement any of the recommendations, it will be necessary to impact our budget accordingly. We would be pleased to work with the other branches of government in an attempt to prioritize these several recommendations.

LEGISLATIVE PACKAGE

The judicial conference is a statutorily-created body composed of all Supreme Court justices and circuit judges. It

was created as a conference for the improvement of the administration of justice. Traditionally, the conference recommends statutory change to the Legislature. At the November 1990 Judicial Conference, several items of suggested legislation were reviewed. They have been introduced on my behalf to the 1991 Legislature. Obviously, I will sincerely appreciate your favorable consideration.

This year I have a favor to ask of you. It is similar to the concept you operated under last year for local units of government. If you choose to pass new legislation affecting the Unified Judicial System, please be cognizant of its impact on the limited financial and personnel resources in the judiciary. We simply cannot continue to assume additional duties or responsibilities without a corresponding increase in our budget.

ALTERNATIVE CARE

It is always a challenge to secure funding to provide appropriate and timely treatment for our state's most troubled and troublesome juvenile offenders. It is equally challenging to expend those funds in an efficient and effective manner and to execute a case management system designed to ensure that the best interests of the child, his family and the citizens of our state are protected.

Through continued cooperation with administrators from the Departments of Social Services, Corrections, Education, and Human Services; the Office of the Attorney General; and the private sector, we have been able to augment the general funds you have

provided to us for alternative care. These funds are directed towards our most troubled youth.

Shortly after being elected Chief Justice, I ordered a review of our out-of-home placement procedures. As a result, we have made some case management changes designed to ensure appropriate placement of juveniles. The new procedures provide for an on-going internal review of out-of-home placements.

COMMUNITY-BASED CORRECTION SERVICES FOR YOUTH

Community-based services such as diversion, probation services, home-based services, and now outpatient chemical dependency counseling are the lifeblood of the corrections system. These services allow the offender to maintain a family life, job, and attend school in the home community while receiving corrective treatment services. In addition, they provide an alternative to our already overcrowded state institutions and private care providers.

When I came to the Supreme Court approximately four years ago, we had 2,408 juvenile offenders receiving our community-based services (FY'86: 1,571 in diversion programs and 837 on probation). At the end of this past fiscal year we had 3,754 receiving these services (2,653 in diversion programs and 1,101 on probation), a 56% increase!

Four years ago, the Unified Judicial System had 2,226 adult offenders under community-based supervision and services; 1,035 were misdemeanants placed in diversion programs and thus were not in our county jails. The remaining 1,191 individuals were under community-based supervision and therefore diverted from serving

their sentences in our penitentiary. At the end of Fiscal Year 1990, we had 2,770 adult offenders under our supervision, an increase of 24%. One thousand twenty-one were misdemeanant offenders and 1,749 were felons. Diverting 1,749 convicted felons (an increase of 46%) from the state penitentiary to community-based services provided by our court services officers serves well toward reducing the costs of additional penitentiary cells.

To be sure, judges and court services officers are doing their part to prevent unnecessary and expensive out-of-home placement and commitments to the state correctional institutions without jeopardizing the safety of our communities.

VICTIM RESTITUTION

Services to victims of crime remain a priority of the Unified Judicial System. In addition to ensuring appropriate treatment of victims during the judicial process, during FY'90 the judiciary collected in excess of $1 million in victim restitution from offenders. This is an increase of 45% over the funds returned to victims four years ago. These citizens, who through no fault of their own fell prey to criminals, deserve whatever services we are allowed to provide and whatever restitution we are capable of collecting.

FUTURE DIRECTIONS OF COURT SERVICES

During the past summer four study groups, each with representatives from the three branches of government and the private sector, and assisted by consultants, studied South Dakota's juvenile and adult justice and correction systems. I

have directed staff to compile all the conclusions and recommendations and to estimate the cost for implementation thereof. We will work with the other branches of government to develop a collaborative plan of action commensurate with South Dakota's public policy. I must reiterate, however, the various committee recommendations have not been impacted in our budget request.

CIVIL AND CRIMINAL CASE LOAD STATISTICS

For details on judicial case load, I refer you to the statistical data in the Annual Report of the South Dakota Unified Judicial System which follows this message.

CRIMINAL DOCKETING AND AUTOMATED ACCOUNTING SYSTEM

We continue implementation of the Criminal Justice Information System (CJIS) and expect to have it on line in the thirteen largest counties by December 1991. At this time seven counties are on line and all reports indicate the system is working well.

While progress on the criminal docketing phase continues at a steady pace, I wish I could be as happy about the progress of the automated accounting system. Through no fault of our own, we still do not have an automated accounting system; we still manually collect, account for and distribute millions of dollars. This is not acceptable! We simply must move from the pencil to the computer. I hope my next message to you will be more positive in this respect!

JUDICIAL ELECTIONS

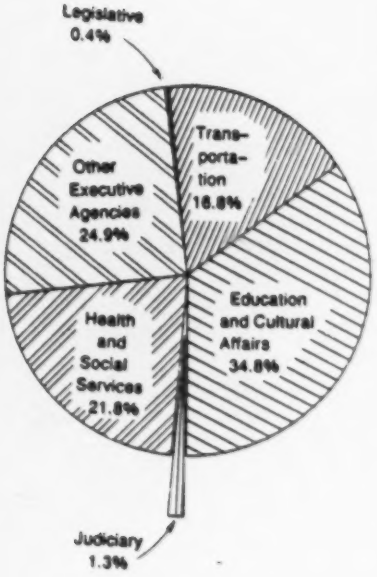
The judicial elections for circuit judges this year were somewhat controversial. All thirty-six judges were up for re-election; however, only six had opposition. (There were judicial elections in the Fourth and Sixth Circuits; however, the candidates were seeking the office vacated by a retiring judge.) Questions have been raised whether popular election of circuit judges is appropriate. Others suggest that the retention election method, like that for Supreme Court positions in this state, should be considered for the circuit courts. I know several people join me in the strong belief that no lawyer should be allowed to become a candidate for a judicial position until they are certified as qualified for such position by the Judicial Qualifications Commission or some other appropriate group.

I would like to appoint a broad-based committee, comprised of judges, lawyers, legislators, and lay people, to review the existing laws in this state and the laws of other states and to then prepare recommended changes, if any, concerning the judicial election process in South Dakota. After review and comment, in consultation with the judicial conference and the Supreme Court, I will prepare and submit recommendations to the Legislature for proposed legislative or constitutional changes that would be appropriate to address the judicial election issues. At my request the Supreme Court has put a small amount of money in our FY92 budget request to pay the expenses of this endeavor.

GENERAL BUDGET

As some of you may appreciate, the budget of the Unified Judicial System is but a minuscule portion of the overall state budget. The pie chart on the cover of the Governor's Budget for Fiscal Year 1992 is somewhat misleading (and I am convinced that it was not done in bad faith). The pie chart below more accurately reflects what "share of the pie" our third branch of government actually received in Fiscal Year 1991.

Fiscal Year 1991 Operating Budget

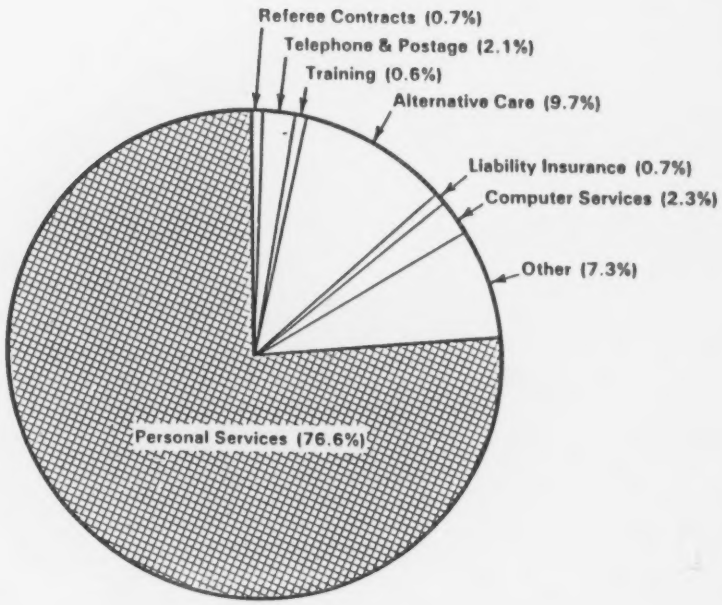


AGENCY (Full-Time Employees)		AMOUNT (MILLIONS)	PERCENT OF TOTAL
EXECUTIVE			
Transportation (1284)		$207.9	16.8%
Education and Cultural Affairs (4539)		431.5	34.8%
Health and Social Services (1353)		270.7	21.8%
Other Executive Agencies:			
Human Services (1687)	$83.1		
Corrections (545)	22.4		
Labor (449)	26.7		
Executive Management (388)	49.9		
Game, Fish and Parks (473)	21.8		
Commerce and Regulation (516)	28.4		
Other (1069)	76.3		
Total, Other Executive Agencies (5127)		308.6	24.9%
LEGISLATIVE (93)		4.7	0.4%
JUDICIARY (424)		16.2	1.3%
TOTAL (12,820)		$1,239.6	100.0%

Most of the funds in the UJS budget are for programs over which we have little discretion or flexibility. The following pie chart shows that the greatest share of our $15 million budget is allocated for personnel services, with another significant amount designated for alternative care (which appropriately is "sacred" money reserved for problem youth). As you can see, the funds remaining for other necessary support services are very small.

Unified Judicial System

Budget Allocation



As an independent, third branch of government, the Unified Judicial System has its own internal budget review process and policies. We receive budget requests from the circuit presiding judges and from our administrative staff. The Supreme Court then meets and scrutinizes each budget request before it is submitted to the Legislature. Being basically a sound, conservative group, we put no frills in our budget. Rather, as responsible constitutional officers and sound fiscal managers, we submit a budget to the Legislature for what we genuinely need.

This year we have departed from tradition and are allowing the Bureau of Finance and Management to review our budget. That decision was made after the budget book was printed. We anticipate that the Bureau of Finance and Management will be reasonable, realistic and prudent. It is my information that the Governor will then make a recommendation to the Legislature, and the appropriate page or pages of the budget book will be amended or substituted.

I conclude this section by saying it is unthinkable to ask that we maintain and operate a modern, effective judicial system, providing tremendous services to the people of this state, without appropriate funding. I must observe that the public, the Legislature, and the executive branch are constantly making requests and demands upon us for judicial and administrative services. We simply cannot properly respond to those requests without additional funding. I trust and assume that the Legislature will fairly act upon our request. Perhaps with all

of the review it has received, our budget request will be favorably considered and fully appropriated.

JUDICIAL SALARIES

No "State of the Judiciary" message would be complete without a mention of judicial salaries. You have undoubtedly seen the recent news reports indicating that Supreme Court Justices' salaries in South Dakota rank 49th nationally. The article did not mention that circuit judge salaries rank 48th. Not mentioned in those articles is the fact that although we have a good judicial retirement program in this state, unlike many states, the judges and justices pay significantly for it. Nine percent of our salary is withheld to apply towards our retirement benefits. Many states are noncontributory.

You should know that we are most grateful for the salary increase the Legislature gave us last year. However, it is interesting to note that although you increased my base salary by approximately $3,100, my take home pay, as reflected by my paycheck stubs, only increased $58 per pay period.

Proposals will be made to you to increase judicial salaries. South Dakota has an outstanding complement of justices and judges. They are dedicated and hard-working men and women. Most have made great sacrifices, financial and otherwise, to become judges. Considering the important, stressful duties they perform, they are entitled to increased pay. I hope you will look favorably upon the proposals that are made.

CLOSING

I begin my closing by thanking my colleagues on the Supreme Court for their confidence and support of me. My predecessor, Chief Justice Wuest, did an outstanding job of leading the judiciary. Following his guidance, the UJS made many strides into the continued improvement of the judiciary. I hope to continue his programs and implement many of my own. Our single goal is the betterment of the Unified Judicial System and the state of South Dakota.

I am committed to working closely with the executive and legislative branches of our state. We all have many important independent duties; however, most of our obligations require cooperation and unity with one or both of the other branches. I am a team player and will strive to be an active, productive member of the constitutional government team, which the people of our state genuinely want and deserve.

Please feel free to contact me or any of my staff at any time. We welcome your contacts!

I extend to you my sincere best wishes.

ROBERT A. MILLER
Chief Justice

1990

Annual Report of the

South Dakota Unified Judicial System

January 1991

Members of the South Dakota Supreme Court

Hon. Frank E. HENDERSON	Hon. George W. WUEST	Hon. Robert A. MILLER	Hon. Robert E. MORGAN	Hon. Richard W. SABERS
Justice, First District Hill City	Justice, Fifth District Aberdeen	Chief Justice, Third District Pierre	Justice, Fourth District Vermillion	Justice, Second District Sioux Falls

This is the Supreme Court as of December 31, 1990. Justice Morgan retired on January 4, 1991.

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UNIFIED JUDICIAL SYSTEM
COURT STRUCTURE

Functional Summary of the South Dakota Judiciary

Supreme Court

Five members appointed by the Governor from judicial districts and subject to statewide electoral approval three years after appointment and every eight years thereafter. Retirement at age seventy.

Court term coincides with calendar year.

Has appellate jurisdiction over circuit court decisions.

Has original jurisdiction in cases involving interests of state. Issues original and remedial writs.

Has rule-making power over lower court practice and procedure, and administrative control over the Unified Judicial System.

Renders advisory opinions to the Governor, at his request, on issues involving executive power.

Circuit Court

Eight Circuits served by thirty-six judges, who are elected at-large from within their respective circuits for an eight-year term. Vacancies filled by Governor's appointment.

Trial courts of original jurisdction in all civil and criminal actions. Exclusive jurisdiction in felony trials and arraignments, and all types of civil action except those areas of concurrent jurisdiction shared with magistrate courts, listed below. Appellate jurisdiction over magistrate court decisions.

Magistrate Courts

Lay Magistrate:

Appointed by the presiding judge for an indefinite term. This function is usually performed by the clerk of court.

Concurrent jurisdiction with circuit courts to:

Perform marriages, receive depositions, issue warrants, conduct certain preliminary hearings, set bail, appoint counsel, accept pleas for class-two misdemeanors, conduct hearings for petty offenses and render judgments for uncontested civil cases involving damages of $2000.00 or less.

Law-Trained Magistrate:

Licensed attorney, appointed by presiding judge for a four-year term. Part-time appointees serve at the pleasure of the presiding judge.

Additional jurisdiction in magistrate court to:

Conduct preliminary hearings for all criminal prosecutions, act as committing magistrate for all purposes, conduct trials of criminal misdemeanor, civil actions involving damages of $2000.00 or less, and small claims actions.

The Court Structure

The judicial system of South Dakota, as shown in the chart on the previous page, is comprised of two component levels of courts having interrelated jurisdictions. The circuit courts are the lower courts of original jurisdiction through which the bulk of the criminal prosecution and civil litigation is processed. The Supreme Court, in addition to its own areas of original jurisdiction, provides the administrative leadership for the legal and judicial system, and serves as the state's appellate court. This means that problems the litigants have with decisions made at the circuit court level are brought, as appeals, to the Supreme Court for resolution.

The circuit courts employ magistrate courts to assist in processing misdemeanor cases (mostly traffic and DUI) and less-serious civil actions such as small claims.

The courts, and the administrative apparatus of the judicial system, are described in further detail in the material following.

Supreme Court

The Supreme Court is the state's highest court and the court of last resort for state appellate actions. It is the final judicial authority on all matters involving the legal and judicial system of South Dakota. In considering state issues, however, and in making decisions about cases received from parties appealing circuit court actions, there are a few restrictions on the authority of the Court. The justices, for example, are generally expected to follow precedent--that is, their own previous decisions (with some allowance for progressive change). Also, there are the constraints placed upon the Court by the State and Federal Constitutions, by statute law passed by the legislators, and by decisions of the Federal Courts.

When a case, or an issue, meets the general criteria for consideration, the Court's judgment--to affirm or reverse a lower court decision, for example--is based on a majority vote of the five justices.

The responsibility of writing the majority opinion for each appropriate case (not all cases require a written opinion) is assigned to the justices by lot. Also, all of the justices have an unrestricted right to prepare a dissenting or concurring opinion to accompany the majority opinion. These written opinions are published in the Northwest Reporter, which is printed and distributed by the West Publishing Company.

The working term of the Supreme Court extends the full calendar year. The sessions are usually held in the hearing room in the State Capitol, or in those cities, or college campuses, that the Court may specify by its own order.

Membership and Appointment

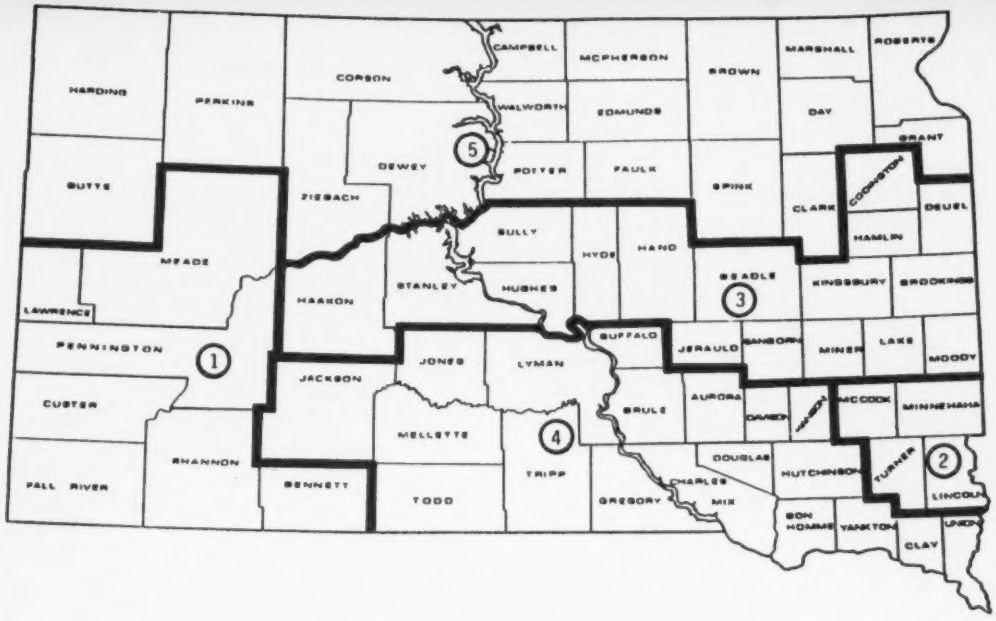
The five members of the Court (four justices and a chief justice) are responsible for making collegial decisions regarding appellate cases and other judicial business. It is not unusual, however, for one of the judges from the circuit court to be assigned to sit on the Supreme Court bench temporarily to assist in the decision-making process.

Such appointment may occur when a justice disqualifies himself because he might have, or appear to have, personal involvement in a case, or if there is a vacancy on the Court caused by the illness or departure of a justice.

All of those who sit on the Supreme Court must be licensed to practice law in the state, and permanent justices must be voting residents of the district (see Map 1) to which they are appointed at the time they take office. There is no formal age requirement for those who serve on the Court, but there is a statutory requirement that a justice must retire shortly after reaching the age of seventy. A retired justice, if he makes himself available, may be called back into temporary judicial service in any of the state's courts.

Under the terms of a Constitutional Amendment passed by the voters in November, 1980, vacancies on the Supreme Court are filled by Governor's appointment. This appointment must be made from a list of two or more candidates recommended by the Judicial Qualifications Commission. All Supreme Court justices must stand, unopposed, for statewide approval or rejection by the electorate in a retention election. For newly-appointed justices, the vote is held at the next general election following the third year after appointment; for incumbent justices who have been elected under the earlier system, the vote is held at the end of their existing eight-year term. After that, all justices stand for retention election every eighth year.

Justice Henderson, elected from district one, began serving his term in 1979 and was retained in the November, 1986 election. His next retention election will be held in 1994. Justice Sabers, from district two, and Chief Justice Miller, from district three, were appointed in 1986 and participated in their first retention election in 1990. Their next election will be held in 1998. Justice Morgan, from district four, won his retention election in 1984 and would have stood for retention election in 1992, but he is planning his retirement in January, 1991. Justice Wuest, from district five, was appointed in 1986 and stood for retention election in 1990.



Map 1. Supreme Court Appointment Districts

Jurisdiction

The original jurisdiction--as contrasted with appellate jurisdiction--of the Court extends generally to all issues involving the interests of the state. The jurisdiction includes power to issue original and remedial writs when the interests of the state are directly involved, or when ordinary jurisdictions and remedies are inadequate to provide relief. The Court may also render advisory opinions to the Governor, at his request, on issues involving the exercise of his executive power.

The appellate jurisdiction of the Court, by which the justices hear appeals from the decisions of the lower courts, constitutes the largest portion of their workload. This appellate control insures adherence by the circuit judges to accepted principals of justice throughout the judicial system. It is one significant way in which the Supreme Court serves the public.

In addition to their original and appellate jurisdictional duties, the justices also provide administrative control over the judicial and legal system of the state.

For example, the Court is responsible for supervision of the licensing of attorneys as members of the State Bar, and for deciding questions involving the removal of attorneys from professional practice in the state. The Court is assisted in this activity by the disciplinary board of the state bar, which prosecutes all disciplinary proceedings before the Court. This board is comprised of seven members, six of whom are appointed by the president of the state bar association, and one of whom is appointed by the Chief Justice.

Also, the discharge of these disciplinary duties requires that the Court establish a code of conduct regarding appropriate behavior of the members of the legal community, and hold disciplinary hearings to consider violations of these guidelines. Through this process, the Court is able to maintain control over the professional conduct of the attorneys of the state.

Administrative authority over the judges and justices of the court system is also exercised by the Supreme Court, assisted by the Judicial Qualifications Commission, which is discussed on the following pages.

The administrative rule-making power of the Supreme Court also applies to lower court practice and procedure, encompassing such judicial items as the regulation of civil litigation and criminal prosecution, and the Rules of Appellate Procedure. Supreme Court Rules, other than those designated as "internal procedures" (which include policy regulation, for example, of judicial system personnel), become part of state law, just as the statutes passed by the legislature.

Administrative responsibility of the Court also includes general management and supervision of the Unified Judicial System, which occasionally involves the modification of the number of circuit court judges and boundaries of circuits.

Some rules recently issued by the Court include modifying proof of service, and time of service, to accommodate the use of facsimile transmission equipment, setting new time limits on claims for costs and disbursements, changing the requirements for limited court appearance by non-resident attorneys, establishing new resignation documentation in disbarment proceedings, modifying the procedure for the issuance of circuit court rules by the presiding judge, and releasing a new rule to provide for the authorization of a court signature by telephone.

Beyond these rule-making functions, the Court appoints personnel to specific permanent positions in the judicial system, authorizes commissions within the judicial branch, and approves membership on those commissions. The Court also establishes rules for effective administrative policy in the system, such as regulations governing official travel, and for training of the personnel in the Unified Judicial System.

In addition, the Court appoints such personnel as may be appropriate to serve the needs of the state judiciary. The Court's administrative responsibility is exercised normally through the power of the Chief Justice, as specified in SDCL 16-2-20, which provides extensive authority for him to take any action necessary to ensure the efficiency of the judiciary process. The Court is assisted in this role by the State Court Administrator, the staff in his office, and the presiding judges.

Settlement Conference

The appellate settlement conference is an innovation recently introduced into the South Dakota appeals process to provide for disposition of part of the Court's workload by a Court-appointed conferee. This conferee, meeting with the parties to the appeal, attempts to facilitate a settlement between them, or to clarify the main issues of the appeal.

This process provides an alternative method of disposing of an appeal. The parties involved--usually through their attorneys--meet in their own locality and attempt to reach an agreeable settlement without requiring a decision by the Supreme Court. Docketing statements that are filed with the appeal indicate the willingness of the parties to participate in a conference. These are screened by the Court's staff attorneys, who select those that seem most amenable to settlement by the conference process.

This process helps conserve the resources of both the litigants and the Court. The litigants save part of the normal expenditure for legal briefs, transcripts and attorney's travel costs, as well as the expense saved by the reduction of the attorney's time spent in preparation for, and presentation of, and oral argument before the Supreme Court. The Court saves time usually spent in researching the case and preparing an opinion.

Settlement conferences may be properly requested only by parties appealing from lower court decisions that involve money judgments, domestic relations cases, workmen's compensation, or administrative agency decisions. A conferee, however, may invite participation, if it seems appropriate, by the parties to any civil (non-criminal) appeal.

Each conferee--usually a retired judge or justice, or an attorney who has special background--is appointed by the Court to deal with a specific case. The conferee is expected to be aware of relevant Supreme Court decisions, and to have the skill to analyze the issues involved and present suggestions for effective settlement.

Data for the settlement conferences held during fiscal year 1990 are shown on Table 1.

SUPREME COURT DATA

Supreme Court Data

The information on Table 1 is presented graphically on Chart 1. Categories shown are those that are most commonly used in Supreme Court cases.

In the table, "Intermediate Appeals" are appeals from circuit court decisions that are not final and not appealable of right. These are accepted at the discretion of the Supreme Court.

A "Notice of Review" is filed by an appellee (the prevailing party in the lower court, against whom the appeal is brought) when he seeks review of any judgment or order entered in the same action from which an appeal has been taken. A notice of review is a separate filing, but not a separate disposition. It is disposed as part of the original appeal.

Under the "Dispositions" heading, the category of "Expedited Appeals Granted" represents those appeals that have been summarily affirmed or reversed on established grounds set forth in SDCL 15-26A-87.1

In these proceedings, the Court, on its own motion, may either affirm or reverse the judgment or order from which the appeal is taken. The term "expedited appeal" is used because it usually takes less time to process appeals under this rule. The Court must be unanimous in its decision to render the summary disposition, and that decision is set out in an order or memorandum opinion.

Every case that has been filed in which no decision has yet been entered is a pending case. There are three main subcategories of pending cases, as shown on Table 1. Cases that have been completely briefed, orally argued or submitted to the Court on briefs, and which await only final disposition by the Court, are placed in the "Submitted and Pending" category. Cases that have been completely briefed and are awaiting placement on the Court's calendar are placed in the "Ready for Submission" category. Cases that have been filed, but are still in the transcript or briefing stages are placed in the "Not Ready for Calendar" category.

The lower part of the table shows settlement conference data for the four fiscal years they have been available. For FY 1990, out of a total of 72 filings (most of which were requested by the appellant), 42 conferences were held--15 resulted in settlements--and another 4 were still pending at the end of the fiscal year. The number of filings and conferences have both increased from the previous fiscal year. Filings increased by 20% and conferences by 27%.

In the bar chart, cases "Submitted and Pending" are shown as "Pending." The category of "Ready for Submission" is shown as "Ready."

The data shown in the chart illustrate that total appellate filings have increased noticeably in fiscal year 1990 (up 20% since 1985). Filings were rising steadily from 1985 through 1988, but decreased slightly in 1989. They are now back up to about the 1988 level, which was probably the highest number of appellate filings ever recorded by the Court.

Dispositions, which were at their highest level in fiscal year 1989, have dropped this year by about 10% after three years of steady increase.

Cases submitted and pending--that is, awaiting a decision by the Court, show a slight increase this year, after three years of decrease, to about the same level as FY 1988. The total of cases ready for submission and those not ready for placement on the calendar total 219, a slight increase over last year. These pending cases had been increasing for the three years prior to FY 1989, when they decreased slightly.

SUPREME COURT CASELOAD COMPARED BY FISCAL YEAR

FISCAL YEAR --->	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
FILINGS	395	449	463	426	452
Appeals	14	362	370	325	346
Intermediate Appeals	28	20	27	37	43
Original Proceedings	30	26	21	29	16
Notice of Review	19	34	37	33	41
Miscellaneous Filings	4	7	8	2	6
DISPOSITIONS	419	381	463	484	434
Opinions/Cases	207/252	186/207	194/243	199/247	153/186
Orders of Dismissal/Cases	80/81	104/105	103/104	106/106	106/110
Orders of Denial	18	14	14	27	28
Miscellaneous	27	26	24	27	16
Expedited Appeals Granted	41	29	77/78	77	88
PENDING CASES (as of 6-30)	263	336	341	287	310
Submitted and Pending	80	109	91	82	89
Ready for Submission	44	63	74	58	52
Not Ready for Calendar	136	163	174	146	167
Other	3	1	2	1	2
SETTLEMENT CONFERENCES FILED		93	71	60	72
Filed by Appellant		85	66	52	63
Filed by Appellee		6	4	7	7
Invited by Conferee		2	1	1	2
Ineligible		38	27	17	27
Refused		12	6	7	9
Conference Unsuccessful		20	27	22	27
Case Settled		12	13	11	15
Pending (End of FY)		9	7	9	4

Table 1. Supreme Court Caseload Compared by Fiscal Year

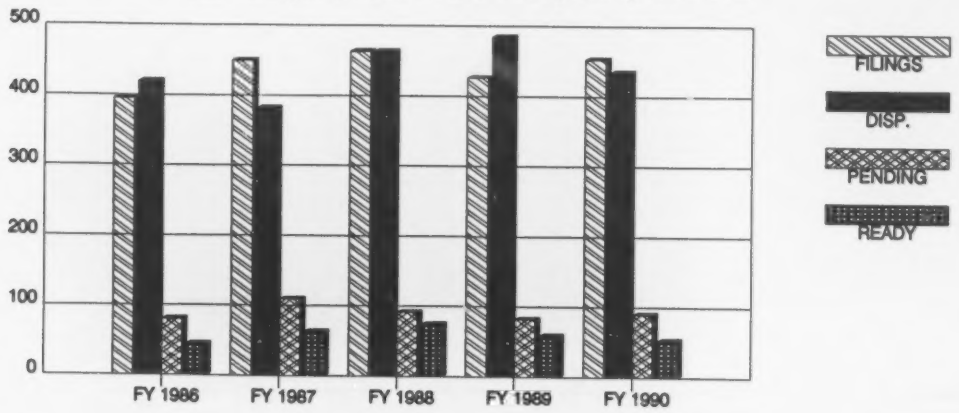


Chart 1. Supreme Court Caseload Comparison

CIRCUIT COURT

Circuit Court

The circuit courts are the trial courts of general jurisdiction. This means the circuit court judges have original jurisdiction in all cases and proceedings except those reserved for the Supreme Court. Appeals from decisions of the magistrate court, a subdivision of the circuit court, are also heard by the judges of the circuit court.

Circuit court judges are elected at large from within their respective circuits for a term of eight years. In the event of a vacancy in one of these positions, the Governor appoints a replacement from a list of at least two candidates recommended by the Judicial Qualifications Commission. The circuit judge must be a voting resident of his circuit at the time he takes office. The thirty six judges, and the law-trained magistrates, in office at the end of calendar year 1990 are listed on page 11. Map 2 below shows the boundaries of the eight judicial circuits.

Direct supervisory control over the circuit court procedures and personnel is exercised by the presiding judge of each circuit, who is appointed to this administrative position by, and serves at the pleasure of, the Chief Justice of the Supreme Court. The authority of the presiding judge includes the following.

1) Assigning circuit judges and arranging schedules for sessions of circuit court, and supervising the calendar for circuit court trials and hearings.

2) Appointing clerks, deputy clerks, bailiffs, and other personnel within the circuit, and establishing their rate of compensation as authorized by Supreme Court rule.

3) Arranging for the proper drawing of jury panels and for the reporting of cases.

4) Periodically reviewing and evaluating personnel performance in the judicial circuit.

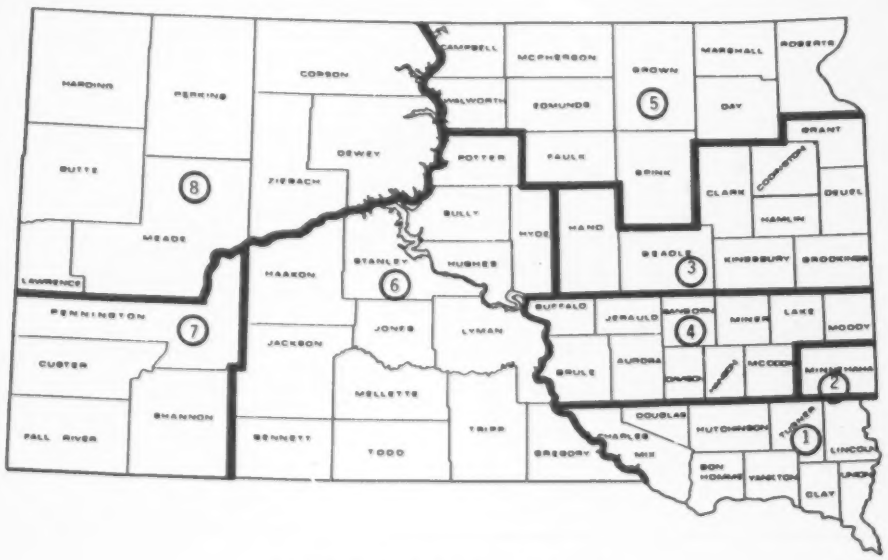
5) Monitoring the schedule of circuit judges to ensure their availability in each county according to statute.

6) Authorizing a schedule of fine and bond amounts to be used by magistrates and law enforcement officers in criminal prosecutions.

Circuit court jurisdiction over minor court actions is shared with the courts of limited jurisdiction, discussed on the following page. Arraignment and trial of all felony cases are part of the exclusive jurisdiction of the circuit courts. The exclusive civil jurisdiction of these courts includes cases involving the following.

1) Dispute of title or boundary of real property
2) Divorce or annulment of marriage
3) Probate, guardianship and settlement of estates
4) Juvenile proceeding
5) Civil disputes in which damages claimed are in excess of $2,000.00.

As noted above, the circuit court has appellate jurisdiction over judgments, decrees and orders of magistrate courts. Decisions in small claims cases cannot be appealed.



Map 2. Judical Circuits and Counties

Magistrate Courts

In addition to the circuit courts, the South Dakota legislature has authority to provide for courts of limited jurisdiction. In the present system, these courts--the magistrate division--assist the circuit courts in disposing of misdemeanor criminal cases and minor civil actions. In so doing, the magistrate courts make the judicial system accessible to more of the public, providing a means of direct court contact for the average citizen. The jurisdiction of the magistrate court varies depending on whether there is a lay magistrate or a law-trained magistrate presiding.

The law-trained magistrate is required to be licensed to practice law in the state. Because of this legal knowledge, these magistrates are better able to provide effective decisions regarding more complex legal issues. Each full-time law-trained magistrate is appointed by the presiding judge of the circuit to a four-year term upon approval by the Supreme Court.

As is apparent from the list presented on page 11, a substantial number of the law-trained magistrates are part-time personnel who may continue in their own private legal practice. Full-time law-trained magistrates are not permitted to have a private practice.

In addition to the functions of the court with a lay magistrate presiding, the law-trained magistrate may conduct preliminary hearings for all criminal charges, and act as a committing magistrate for all purposes. Also, with a law-trained magistrate presiding, the magistrate court may conduct trials for charges of criminal misdemeanor, civil actions involving amounts of $2,000 or less, and disputed small claims cases.

The lay magistrates, in contrast to the law-trained personnel, are more restricted in their jurisdiction. They may accept not-guilty, nolo contendere, and guilty pleas (and impose sentence) only in criminal cases for which the maximum penalty is $100.00 fine and thirty days in jail. Cases in which a not-guilty plea is entered are then scheduled for trial before a law-trained magistrate or circuit judge.

In all criminal cases, the lay magistrate is authorized to issue warrants for arrest or search, appoint legal counsel for defendants who are unable to pay for a lawyer, set bond for the release of the accused, and preside over preliminary hearings (unless a request is made by the accused to have the hearing before a law-trained magistrate or a circuit judge). In addition, the magistrate is authorized by statute to function as coroner when the regular coroner of the jurisdiction is not available.

The lay magistrate also has the power to perform marriages, to take depositions and administer oaths; and to enter judgments in defaulted small claims cases and other uncontested civil disputes involving amounts of $2,000 or less. Table 3 shows the number of personnel, by circuit, involved in the clerk and lay-magistrate activities. In most counties, the clerk of court also serves as the lay magistrate.

Although there is no educational requirement for a lay magistrate other than high school graduation, the lay magistrate is required by law to attend a training institute provided every other year by the State Court Administrator's office.

The state law assigns extensive authority to the lay magistrate, particularly in criminal cases, but the extent of the actual exercise of this authority varies considerably from one circuit to the next, depending on a number of factors. These factors include the policy of the presiding judge, the availability of law-trained magistrates and circuit judges, and the land area of the circuit.

Presiding Judge's Meeting

Approximately every two months throughout the year, the eight presiding judges meet with the Chief Justice and the State Court Administrator. At two of these meetings each year, participation by the eight chief court services officers is also included.

Through the presiding judges meetings, judicial circuit personnel are provided direct communications into administrative policy and procedural decisions of the Unified Judicial System. The agenda encompasses a wide variety of subjects involving policy, management problems, and current issues relating to the operation of the courts.

Through these meetings, the presiding judges coordinate administrative activities among the circuits and keep themselves abreast of the latest developments in the court system. This promotes uniformity and administrative efficiency for the judges and staff in the judicial circuits. These conferences also provide an opportunity for members of the executive branch and the legislature, and other interest groups, to meet and discuss issues of mutual concern with the judicial personnel responsible for the implementation of operations at the circuit court level.

During the year, agenda items for the presiding judges meetings included changes in mental competency laws, informing law enforcement officers of domestic protection orders, the use of court reporters in magistrate court, computer training programs for clerks, revocation of driver's licenses for certain drug and alcohol offenses, collection of DNA specimens from certain criminal defendants, court-reporter audit procedures, credit cards for court employees, referees for child support hearings, FBI reports for the state penitentiary, and an increase in class-two misdemeanor jurisdiction.

Judicial Conference

Another primary channel of management communication in the Unified Judicial System is the annual meeting of all circuit judges and Supreme Court justices, required by state law and usually held in the Fall of the year. The purpose of this meeting, designated the Judicial Conference, is to give judges the opportunity to study the organization, rules, practices, and procedures of the judicial system, and make recommendations to the Supreme Court for appropriate legislative and Supreme Court rules changes.

The formal deliberation agenda for the 1990 Judicial Conference included a discussion of relations between the courts and the bar association, a consideration of the functions of the departments within the State Court Administrator's office, a presentation by the judicial election committee, committee reports on the corrections commission, the juvenile justice study committee, the juvenile code review, the youth advocacy project, and the department of correction long-range plan. There was also a discussion of the meeting of the judges' association, and an update by the department of correction.

Judicial Qualifications Commission

This commission, created by Article V, Section 9, of the South Dakota Constitution, and supporting statute (SDCL 16-1A), is comprised of seven members. These include 2 citizens who are not members of the state bar, appointed by the Governor; 2 judges of the circuit court, elected by the Judicial Conference; and 3 persons practicing law in the state, appointed by the president of the State Bar Association. The four year terms of the members are imbricated to promote administrative continuity.

The Judicial Qualifications Commission is primarily responsible for initiating disciplinary actions against members of the judiciary. It is empowered to receive complaints against any justice or judge, to hire personnel to investigate those complaints, and to conduct confidential hearings concerning the removal or involuntary retirement of the person subject to the inquiry. On recommendation from this commission, and after appropriate hearing, the Supreme Court may censure, remove, or retire such person for cause as specified in the Constitutional article and Supreme Court rule.

The commission also reviews applicants for vacancies on the Supreme Court and the circuit bench and nominates two or more of the most qualified to the Governor. The Governor then appoints one of those nominees to fill the vacancy.

BENCH PERSONNEL BY JUDICIAL CIRCUIT
JANUARY 8, 1991

FIRST JUDICIAL CIRCUIT, Judges:
Bogue, Richard E.
*Hertz, Ernest W.
Kern, Paul J.
Tapken, Jay H.

Law-Trained Magistrates:
**Cody, Mary Dell
Humphrey, David C.
Marmet, Robert G.

SECOND JUDICIAL CIRCUIT, Judges:
Amundson, Robert A.
Heege, Robert C.
Hurd, Richard D.
*Kean, Gene Paul
Meierhenry, Judith

Law-Trained Magistrates:
**Lieberman, Peter
**Neiles, Joseph

THIRD JUDICIAL CIRCUIT, Judges:
*Bradshaw, Dale E.
Erickson, Jon
Martin, Eugene L.
Steele, Rodney J.
Timm, Robert L.

Law-Trained Magistrates:
Bingner, Randy
Brekke, Dean

FOURTH JUDICIAL CIRCUIT, Judges:
Anderson, Lee
McMurchie, Boyd L.
*Miller, Ronald K.
Tucker, Tim D.

Law-Trained Magistrates:
Kiner, Patrick
Sage, Doyle

*Indicates Presiding Judge
**Indcates Full-Time Magistrate

FIFTH JUDICIAL CIRCUIT, Judges:
Berndt, Leland J.
*Dobberpuhl, Eugene E.
Gilbertson, David E.
Lovrien, Larry

Law-Trained Magistrates:
Glynn, Richard
**Position open
Olander, James

SIXTH JUDICIAL CIRCUIT, Judges:
Anderson, James W.
Heck, Donald L.
*McKeever, Patrick J.
Gors, Max
Zinter, Steven L.

Law-Trained Magistrate:
Position open

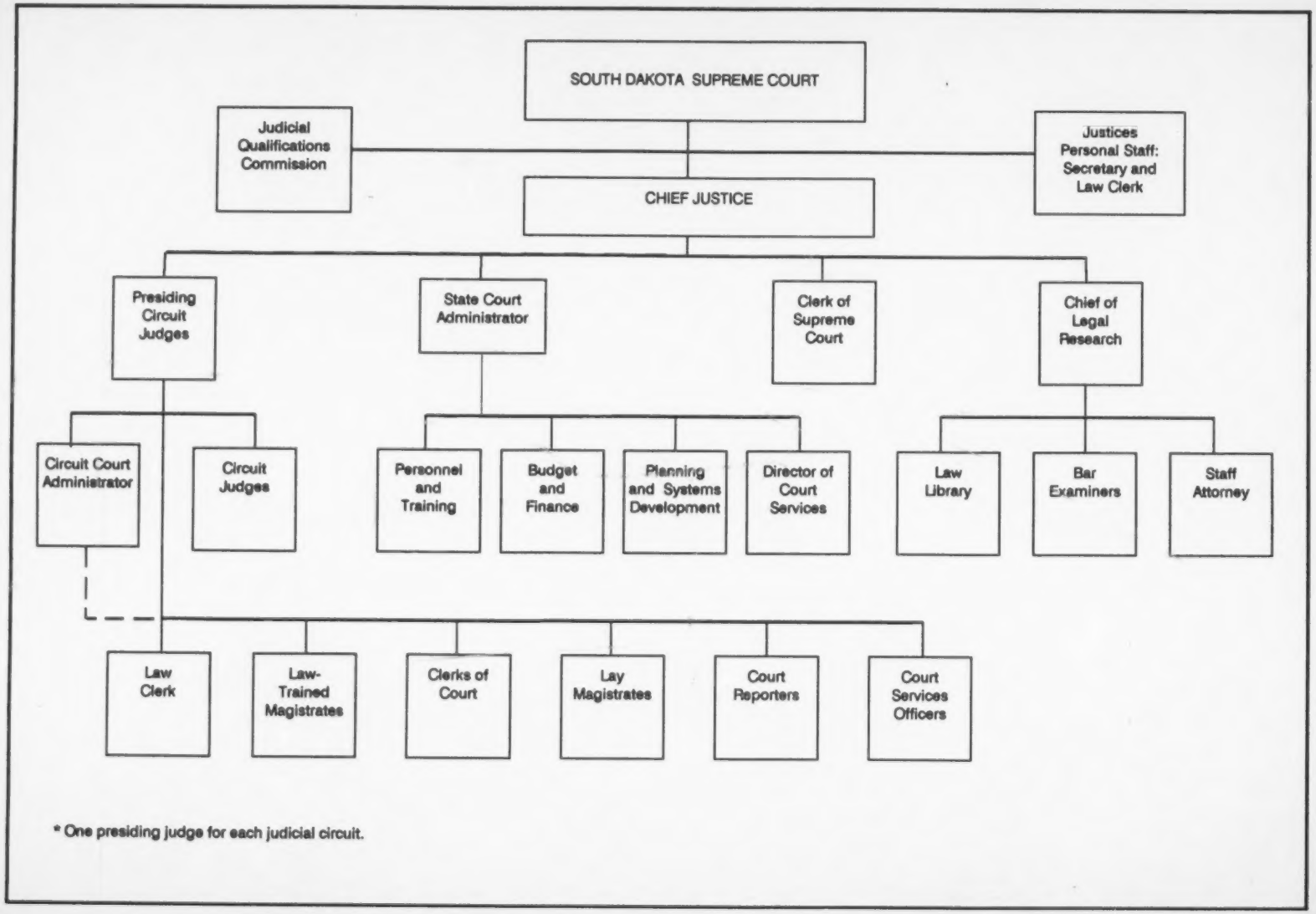
SEVENTH JUDICIAL CIRCUIT, Judges:
Davis, Jeff W.
Grosshans, Roland
*Konenkamp, John
Tice, Merton B. Jr.
Young, Marshall P.

Law-Trained Magistrates:
**Klauck, Jack
**O'Connor, Michael

EIGHTH JUDICIAL CIRCUIT, Judges:
Johns, Timothy R.
*Johnson, Warren
Moses, Scott C.
Tschetter, Robert L.

Law-Trained Magistrates:
**Ellingson, Joseph
Severns, William L.

Table 2. Organization Chart of the Unified Judicial System



* One presiding judge for each judicial circuit.

JUDICIAL STAFFING

State Judicial Staff

Justices' Law Clerks

Each Supreme Court justice employs a law clerk to assist in the extensive writing and research effort required for the preparation of formal Supreme Court opinions. The law clerks are recent law school graduates of high academic standing. They are selected for a one-year appointment that may be renewed for an additional year.

Clerk of the Supreme Court

The clerk assists the Supreme Court, and especially the Chief Justice, in the organization of the correspondence, exhibits, and other documentation related to the formal activities of the Supreme Court. This includes monitoring the progress of all appeals and original proceedings; scheduling oral arguments before the Court; recording Court decisions, orders and directives; and controlling their release and distribution. This office is also responsible for the management of all legal records of the Court; the compilation of appellate statistics; and the documentation and dissemination of all Court rules.

Chief of Legal Research

The attorney appointed by the Supreme Court to this position performs a number of tasks to assist the Court, particularly in the disposition of the technical workload. Responsibilities of the office include the following.

1) As executive secretary of the bar examiners, the Chief of Legal Research assists the examiners in developing, administering, and correcting the examinations given to candidates seeking admission to the bar.

2) As Supreme Court law librarian, the Chief of Legal Research is responsible for supervising and maintaining the Supreme Court law library of over 40,000 volumes.

3) The Chief of Legal Research also coordinates the efforts of staff attorneys in the prescreening of appeals and in drafting internal working memoranda, per curiam opinions, and orders for review by the Court. The staff attorneys screen the cases brought on appeal and make suggestions to the Supreme Court regarding disposition. These attorneys also help reduce the number of Court hearings by organizing the appellate settlement conferences, previously discussed. The purpose of these conferences is to help clarify the issues of the appeal, and to promote settlement between the parties, thus avoiding an expensive appeal and the need for a formal Court opinion.

State Court Administrator's Office

Directly responsible to the Chief Justice, the State Court Administrator serves as the chief management advisor to the Supreme Court. In coordinating policy decisions and developing management programs, this office provides administrative assistance and support services to the Unified Judicial System. Through biweekly meetings with the Supreme Court, administrative issues are discussed and policy decisions made which are implemented by the State Court Administrator.

In addition to these management and policy functions, there are four major subdivisions of the office, each operating within its own sphere of administrative activity.

The Personnel and Training Division is responsible for the maintenance of the Unified Judicial System personnel rules and the administration of all aspects of personnel and training activities for judicial employees. This involves the organization and implementation of training programs for all levels of personnel, including biennial training institutes for lay magistrates, and mandatory professional development programs for judges.

The personnel and training office is also responsible for the revision of personnel rules, and for the activities related to recruitment of new personnel for the judiciary. This includes publication of notices for open positions and coordination of interviews with prospective employees.

The Budget and Finance Division is responsible for the development and administration of the annual budget request and appropriation, the supervision of the accounting system, purchasing, voucher processing and payment, and maintenance of the master inventory. This office is also responsible for the creation of new forms, and for maintaining the integrity of the accounting procedures for the Unified Judicial System.

The Division of Planning and Systems Development is responsible for computer programming and analysis, the operation and maintenance of the judicial management information system, collection of caseload data and maintenance of the system to make the data available, creation of software for use in the court system, and training of personnel in the use of computers.

The Director of Court Services, responsible to the State Court Administrator, acts as advisor on issues related to probation, problem juveniles, restitution, adult interstate compact for probationers and other court services matters. The director is also responsible for the development and coordination of all professional development activities of court services officers, and he staffs the meetings of chief court services officers.

Circuit Judicial Staff

Circuit Court Administrator

The circuit court administrators assist the presiding judge in the management of the circuit. This includes budget, personnel, accounting programs, and statistical reporting responsibility. Presently only the second and seventh circuits are staffed with full time circuit court administrators. In the other circuits, there is an administrative secretary or assistant who performs these functions.

Law Clerk

Every judicial circuit now has the benefit of the services of a full-time law clerk. These are recent law-school graduates employed to provide research assistance to the presiding judge and circuit judges in the preparation of case judgments and orders of the court.

Clerk of Court

Every county in South Dakota is assigned a clerk of court. In a few counties the clerk is employed on a part-time basis. The duties of the clerk, and the deputy clerks that assist in the office, are to organize the court calendar for the county, accept and record fines and fees, perform recordkeeping and filing functions for the courts, and maintain appropriate court records for the judicial reporting system. The clerk also assists and informs the public about the schedule of the court, proper filing procedures, and about other matters of public interest such as the small claims process. In addition, the clerk of court performs the lay magistrate functions in most counties.

The Clerks' Advisory Committee, which includes a clerk-representative from each judicial circuit, meets with the State Court Administrator, and members of his staff, periodically. The purpose of these meetings is to discuss the needs and problems of the clerks' offices, develop solutions, revise the clerks' procedures manual, and make recommendations to the presiding judges regarding administrative or legislative changes.

Court Services Officer

The duties of the court services officers include the following.

1) Designing and supervising juvenile diversion program services.

2) Conducting juvenile, misdemeanant and felony presentence investigations and preparing related written reports and recommendations.

3) Providing probation services to juvenile, misdemeanant and felony probationers and their families.

4) Placing and supervising juvenile offenders in family foster homes and residential group care programs, and providing after care services to juveniles returning to their communities after completing this type of care or programs at correctional facilities.

5) Planning and collecting offender-paid victim restitution, and developing and supervising offender community-service programs.

6) Providing divorce custody investigations and mediation services, and monitoring divorce custody visitations and adoption investigations.

7) Providing public education programs, and managing community-based service activities for juvenile, misdemeanant and felony offenders and their families.

8) Collecting attorney fees, court costs, probation fees, work release costs, drug-buy money, and other costs and fees.

9) Provide interstate-compact supervision services for probationers convicted in other states who want to live and work in South Dakota.

Coordinating the activities of the court services officers are the chief court services officers, one of whom is appointed by the presiding judge in each judicial circuit.

These officers provide administrative channels of communications for the court services programs in that circuit. The chief court services officers meet with the Director of Court Services on a quarterly basis, and with the presiding judges twice each year. The primary purpose of these meetings is to review the status of current programs in order to discern problems in the court services process and develop appropriate uniform solutions. In addition, they furnish a forum for court services personnel to coordinate their activities with those of other government agencies and private resource groups.

Court Reporter

Each circuit judge and most full time law-trained magistrates are assigned a court reporter whose duty it is to keep verbatim notes of required court activities, to make these transcripts available, and to assist the court in any related needs. The court reporters also provide secretarial services for the judge.

Clerk-Magistrate Staffing

Table three, below, shows the number of persons in the various categories of clerk-magistrate and lay magistrate positions, full time and part time, by circuit.

There is a slight decrease in the total number of personnel employed in the clerks' offices during past fiscal year.

CLERK-MAGISTRATE STAFFING BY CIRCUIT, FY 1990

CIRCUITS --->	1	2	3	4	5	6	7	8	TOTAL
FULL TIME:									
Court Clerk-Magistrate	9	1	9	10	8	10	4	4	55
Deputy Court Clerk	3	20	6	0	5	0	16	0	50
Deputy Court Clerk-Magistrate	5	0	4	7	4	4	1	7	32
Accountant	0	1	0	0	0	0	0	0	1
Accounting Clerk	0	1	0	0	0	0	1	0	2
PART TIME:									
Court Clerk-Magistrate	0	0	0	1	2	3	0	4	10
Deputy Court Clerk	4	2	2	1	4	0	0	0	13
Deputy Court Clerk-Magistrate	5	0	5	7	4	11	0	6	38
Lay Magistrate	2	0	0	0	0	2	3	1	8
Document Compiler	0	0	0	0	1	0	0	0	1

Table 3. Clerk-Magistrate Staffing By Circuit

FY 1990 STAFFING ALLOCATIONS BY JUDICIAL CIRCUIT

CIRCUITS --->	*1*	2	3	4	5	6	7	8	TOTAL
Bailiff	0.3	3.4	0.3	0.4	0.3	0.4	1.2	0.8	7.1
Circuit Judge	4.0	5.0	5.0	4.0	4.0	5.0	5.0	4.0	36.0
Clerk of Court	9.0	1.0	9.0	10.4	8.6	11.7	4.0	7.0	60.7
Court Administrator	0.0	1.0	0.0	0.0	0.0	0.0	1.0	0.0	2.0
Court Reporter	4.0	7.0	5.0	4.0	5.0	5.0	7.0	5.0	42.0
Court Services Officer	7.0	15.0	9.0	6.0	7.0	7.0	13.0	6.0	70.0
Deputy Clerk of Court	11.5	23.0	12.5	8.1	13.6	7.6	17.4	7.4	101.1
Law Clerk	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	8.0
Law-Trained Magistrate	2.0	2.0	0.9	1.0	1.8	0.5	2.0	2.0	12.2
Lay Magistrate	0.3	0.0	0.0	0.0	0.0	0.9	0.8	0.6	2.6
Secretary	3.5	5.0	4.5	3.0	3.7	3.0	7.5	3.0	33.2
TOTAL	42.6	63.4	47.2	37.9	45.0	42.1	59.9	36.8	374.9

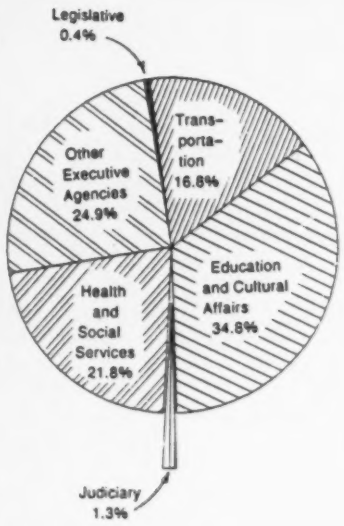
Table 4. Staffing Allocations By Circuit

Staffing Allocations

Table 4 reflects full-time equivalent (FTE) positions, counting hours worked rather than the numbers of total personnel. Because many of the positions filled in the Unified Judicial System are part-time, the staffing data is represented as full-time equivalent (FTE), which is based on hours worked per year (2080 hours = 1 FTE). So, two persons employed, each on a half-time basis, in a given position would appear in the table as 1.0 FTE.

The most noticeable change in table 4 is the addition of a circuit judge and a court reporter in the eighth circuit. There was also an increase in the secretarial staff in the first and seventh circuits.

FINES, FEES AND FINANCES



AGENCY (Full-Time Employees)		AMOUNT (MILLIONS)	PERCENT OF TOTAL
EXECUTIVE			
Transportation (1284)		$207.9	16.8%
Education and Cultural Affairs (4539)		431.5	34.8%
Health and Social Services (1353)		270.7	21.8%
Other Executive Agencies:			
Human Services (1687)	$83.1		
Corrections (545)	22.4		
Labor (449)	26.7		
Executive Management (388)	42.9		
Game, Fish and Parks (473)	21.8		
Commerce and Regulation (516)	28.4		
Other (1069)	76.3		
Total, Other Executive Agencies (5127)		308.6	24.9%
LEGISLATIVE (93)		4.7	0.4%
JUDICIARY (424)		16.2	1.3%
TOTAL (12,820)		$1,239.6	100.0%

Table 5. State Budget Allocation

Financing The Unified Judicial System

The judicial system collects millions of dollars every year in fines, bond forfeitures, fees and costs. However, because of the obvious ethical questions that would be involved if court judgements produced court income, none of this money is used to finance the judicial system (refer to Table 7 on page 19). All the money collected by the judiciary, except as indicated on page 21, is disbursed into other areas of public budgeting such as the school districts or city and county general funds.

Because the judicial system of the state does not generate any of its own funding, it must be financed by money from other sources, primarily the state budget. As demonstrated in the budget allocation data above, the judiciary's share of the budgetary pie is minuscule in comparison with that of major executive-branch agencies.

The state has the responsibility of funding the operations of the Supreme Court, the State Court Administrator's Office, circuit courts, clerks of court, court services programs, the out-of-home placement cost for juveniles, and training. State funding provides for personal services, which include salaries and benefits, for the employees in these operations. This cost for FY 1990 was 11.6 million dollars for 378 full-time and 93 regular part-time employees.

The state also funded operating costs of 3.3 million dollars in fiscal year 1990. These operating costs include travel, contractual services, supplies and materials, and capital assets.

In addition to state funding, city and county governments are required by state law to pay for certain court related expenses.

The responsibility of the county in supporting its court operation inludes all jury and witness fees, and transcript costs and attorney fees for indigent defense. Also, counties are required to provide operational facilities for the circuit court, clerks of court, and court services. These facilities include office space, courtrooms, jury rooms, and other meeting rooms needed to support the courtroom activities. In addition, many counties maintain their own county law libraries, partially funded from a law library fee collected on each civil filing in the circuit court.

In FY 1989, the legislature required the counties to reimburse the state's general fund 10% of the total expenditures for the operation of the Unified Judicial System. This requirement continues until FY 1991, when the reimbursement is reduced to 5%.

The total amount of the reimbursement is pro-rated to each county, based upon percentage of the state population that resides in the county. Credits are allowed to the county for the amount of space provided for the operation of the courts. Beginning in July, 1987, some counties receive a credit for people living on land that is not subject to jurisdiction of the state.

Municipalities are generally required to provide funding to support activities that are necessary to enforce municipal ordinances and bylaws. This includes jury fees, witness fees, and transcript costs and attorney fees for indigent defendants, as all of these are applicable to city ordinance. Municipalities also provide facilities for some magistrates' courts. These facilities consist of office space, courtrooms, and other meeting rooms to support formal court activities. The legislature requires that the state general fund receive 35% of all fines, penalties and forfeitures collected for violation of municipal ordinances.

The State Court Administrator's office manages the fiscal operations of the Unified Judicial System. This includes assisting the Supreme Court in the preparation and submission of the annual consolidated budget request; the administration of the operating budget; and the management of the uniform accounting of all receipts and disbursements of funds for the circuit and magistrate courts. The definitions below apply to the categories of accounting information in Table 6.

DEFINITIONS OF RECEIPT CATEGORIES

City Fines: Fines Collected for violations of city ordinances of which 65% is paid into the city general fund. The remaining 35% is paid into the state general fund. This is the city's payment to the state for the services provided by the Unified Judicial System.

City Costs: Costs which are levied in conjunction with city fines. This is a reimbursement to the city for an identifiable amount spent by the city in prosecuting a case. These funds are paid into the city general fund.

City Forfeitures: Forfeitures of bonds which were posted because of a violation of a city ordinance. These funds are also paid into the city general fund (65%) and the state general fund (35%).

State Fines: Fines collected for violations of state laws. These are paid into the county treasury for eventual transfer to the school district of the county in which the violation occurred.

State Costs: Costs which are levied in conjunction with state fines. These represent an expense the county had in connection with a given case. This money is paid into the county general fund.

State Forfeitures: Bond money forfeited and retained for violations of state laws. This money is paid into the county general fund.

Cash Fees: Fees charged for the filing of various civil actions. This money is paid into the county general fund.

Law Library Fee: A fee of $1.00 or $3.00 charged in addition to the civil case filing fee. This money is used to support the county law library.

Liquidated costs: A $15.00 surcharge set by the state legislature to be assessed for all criminal cases. Eleven dollars of this is to be used for training of law enforcement, corrections, and judicial personnel. Four dollars is used to provide partial reimbursement to counties for costs of counsel for indigent criminal defendants. The money is paid into the state treasury for distribution.

Court-Appointed Attorney Fee: A cost recovered from indigent defendants after conviction, used to reimburse the county general fund for payment of the defendant's court-appointed attorney. The money is paid to the county treasurer.

Petty Offense Fine: A judgment of $20, specified by the legislature to be paid for violation of certain state laws designated as petty offenses. The money is deposited in the treasury of the county.

Restitution: Money collected by the court from a defendant to reimburse the victim for monetary loss caused by the crime. The money is paid to the victim.

Posted Bonds: Bond posted in conjunction with a criminal case. This money is either forfeited and used to pay subsequent fines and costs, or returned to the defendant.

Child Support: Payments collected by the clerk of court from one party in a divorce action for payment to the other party as financial support for the children involved.

Trust Fund: Money deposited with the clerk pending a decision regarding ownership. Also long-term bonds posted in criminal cases. Examples are Supreme Court appeal bonds or specific performance (peace) bonds.

Other: Collections that do not fit any of the foregoing categories.

CLERK OF COURT RECEIPTS AND DISBURSEMENTS
FISCAL YEAR 1990

CIRCUITS --->	FIRST	SECOND	THIRD	FOURTH	FIFTH	SIXTH	SEVENTH	EIGHTH	TOTAL
CASH RECEIPTS:									
City Fines	$122,543	$415,638	$109,399	$57,639	$100,714	$53,808	$144,159	$59,839	1,063,739
City Costs Recovered	0	485	194	0	4,243	148	435	894	6,399
City Forfeitures	70	3,226	8,455	1,504	0	0	0	0	13,255
State Fines	1,158,498	844,578	652,485	532,721	664,933	613,398	677,525	769,116	5,913,254
State Costs Recovered	11,614	39,158	11,539	7,707	14,862	19,904	102,464	23,819	231,067
State Forfeitures	9,149	33,666	6,315	5,512	2,992	5,080	16,790	4,415	83,919
Cash Fees	96,111	165,861	101,026	67,521	96,004	61,632	123,771	62,677	774,603
Law Library Fee	13,370	23,929	14,741	9,914	13,408	8,538	19,641	9,097	112,638
Small Claims Postage	6,100	8,322	6,634	4,802	4,644	3,794	8,555	3,603	46,454
Liquidated Costs	336,458	478,697	196,061	168,941	218,433	182,387	294,905	176,097	2,051,979
Court Appointed Attorney Fees	22,650	15,396	45,687	19,921	42,063	32,662	39,561	15,789	233,729
Petty Offense Fines	1,437	585	540	240	1,560	1,320	3,185	80	8,947
Restitution	110,581	284,574	93,169	84,130	130,600	72,121	204,770	54,005	1,033,950
Posted Bonds	201,254	357,480	195,821	123,490	308,217	163,880	382,535	189,274	1,921,951
Other	34,011	13,468	51,344	8,559	54,559	44,209	310,053	1,786	517,989
Child Support	1,155,052	1,849,638	2,505,350	1,254,116	1,650,482	1,307,930	3,879,208	1,163,705	14,765,481
Trust Fund	22,153	235,846	201,783	121,964	571,278	187,618	223	181,276	1,522,141
CIRCUIT TOTALS	$3,301,051	$4,770,547	$4,200,543	$2,468,681	$3,878,992	$2,758,429	$6,207,780	$2,715,472	$30,301,495
CASH DISBURSEMENTS:									
Remitted to Cities	$79,756	$272,746	$77,019	$38,427	$69,830	$35,222	$94,138	$39,790	$706,928
Remitted to Counties	1,312,860	1,122,357	832,340	643,307	835,673	743,487	982,617	885,218	7,357,859
Restitution	107,535	277,788	87,555	77,234	131,176	68,163	212,243	53,620	1,015,314
Small Claims Postage	6,101	8,322	6,634	4,786	4,644	3,792	8,538	3,603	46,420
Posted Bond Refund	220,179	318,853	201,783	124,687	313,211	147,663	342,637	190,356	1,859,369
Change of Venue	445	504	349	545	439	784	129	470	3,665
Other	34,581	12,181	49,855	7,625	53,782	41,647	309,101	434	509,206
Child Support Forwarded	1,155,052	1,849,638	2,505,350	1,254,116	1,650,482	1,307,930	3,879,208	1,163,705	14,765,481
Trust Fund	19,003	363,940	245,023	260,444	336,049	267,221	100	261,985	1,753,765
Remitted to State	380,380	626,899	238,251	190,121	254,127	202,182	346,667	197,926	2,436,553
CIRCUIT TOTALS	$3,315,892	$4,853,228	$4,244,159	$2,601,292	$3,649,413	$2,818,091	$6,175,378	$2,797,107	$30,454,560

Table 6. Clerk of Court Receipts and Disbursements Fiscal Year 1990

CLERK OF COURT RECEIPTS COMPARED
FY 1986 TO FY1990

	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
CASH RECEIPTS:					
City Fines	$1,052,806	$1,027,712	$986,357	$1,032,041	1,063,739
City Costs Recovered	2,353	4,128	6,592	5,967	6,399
City Forfeitures	14,725	12,245	17,911	16,429	13,255
State Fines	5,029,424	$5,746,279	$5,739,815	5,689,336	5,913,254
State Costs Recovered	240,094	224,837	193,014	215,992	231,067
State Forfeitures	59,177	103,989	91,949	79,839	83,919
Cash Fees	829,429	805,278	789,881	792,631	774,603
Law Library Fee	73,359	69,518	67,726	66,250	112,638
Small Claims Postage	42,414	38,279	40,139	45,914	46,454
Liquidated Costs	1,556,996	1,709,583	1,911,784	2,001,008	2,051,979
Court Appointed Attorney Fee	137,170	139,425	196,674	188,299	233,729
Petty Offense Fines	10,133	7,187	7,669	7,387	8,947
Restitution	721,622	824,885	899,903	920,627	1,033,950
Posted Bonds	1,547,583	1,432,455	1,372,219	1,860,918	1,921,951
Other	501,159	398,466	477,325	507,004	517,989
Child Support	10,315,751	11,474,749	12,547,327	13,828,839	14,765,481
Trust Fund	543,622	943,217	1,208,999	1,154,658	1,522,141
TOTAL RECEIPTS	$22,677,817	$24,962,233	$26,555,284	$28,413,139	$30,301,495
CASH DISBURSEMENTS:					
Remitted to Cities	$697,239	$680,548	$659,767	$687,557	706,928
Remitted to Counties	6,377,284	7,101,875	7,088,606	7,039,156	7,357,859
Restitution	731,825	771,370	912,086	903,400	1,015,314
Small Claims Postage	39,389	32,090	40,127	45,917	46,420
Posted Bond Refund	1,636,290	1,442,059	1,448,094	1,736,999	1,859,369
Miscellaneous Refund	2,401	3,141	2,660	2,618	3,665
Other	498,608	393,119	519,429	502,192	509,206
Child Support Forwarded	10,315,751	11,474,749	12,547,327	13,828,839	14,765,481
Trust Fund	735,550	768,129	694,558	852,994	1,753,765
Remitted to State	1,932,511	2,075,994	2,265,442	2,371,286	2,436,553
TOTAL DISBURSED	$22,966,848	24,743,074	26,178,096	27,970,958	$30,454,560

Table 7. Clerk of Court Receipts and Disbursements Compared

Receipts

Chart 2, below, shows some of the types of receipts collected by the clerk of court offices throughout the state. Restitution is the amount of money required by the court to be paid to the victim of a crime by an offender. The collection, accounting, and disbursement of the restitution is the joint responsibility of the court services officer and the clerk of court. It represents one of the ways in which the court system assists the victim of the crime, in addition to the punishment of the criminal by fine or incarceration.

From 1985 through 1989, restitution increased a little over 50%. In FY 1990, as shown in Chart 2, restitution collections increased again by over 12% from the preceding year, and exceed a million dollars for the year.

The "fees" category represents the money paid by the public for services rendered by the court, such as providing transcripts of certain records in the court offices. Also, fees are collected for the filing--that is, at the beginning--of non-criminal court actions (small claims, probate, divorce, etc.). Total fees demonstrate a very gradual but fairly steady decline over the past five years--apparently a reflection of a similar decline in total civil cases. Civil case filings are up slightly this year, however.

Court-appointed attorney costs are paid initially by the county or city for accused persons who are unable to pay for a lawyer. The court assists in the collection of repayment of these attorney fees from the defendant, sometimes requiring repayment as a condition of probation. The amount of this repayment is shown in the chart below. The 24% increase in FY 1990 includes only the portion of court-appointed attorney costs that were repayed by the defendant. The defendant's payment percentage of the total court-appointed attorney cost this year is slightly higher than that of fiscal year 1989. See tables 9 and 10.

In addition to this direct repayment from the defendant, a certain portion of the costs collected on all criminal convictions is set aside and returned to the counties as a percentage of repayment for the total paid by the county for court appointed attorneys. This apportionment of costs is specified by SDCL 23-3-53 and is explained in some detail in the material following under the title of "Fines and Costs." Also, Chart 9 on page 26 shows a comparison of total such costs and repayment over the five-year period since the beginning of 1986. Other details of repayment for court-appointed attorneys can be found on Tables 9 and 10, and the charts associated with those.

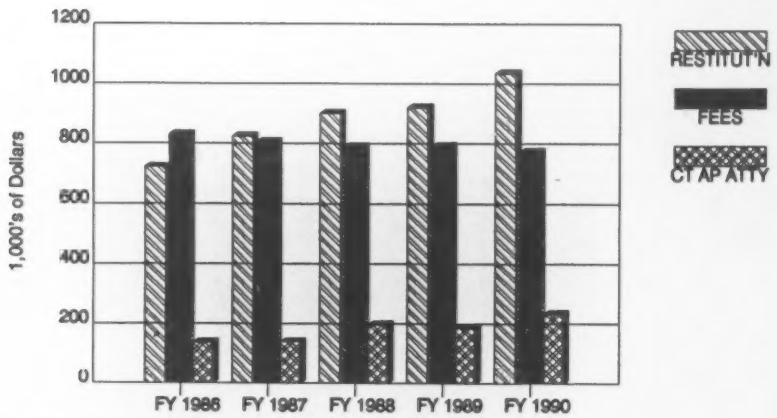


Chart 2. Selected Receipts Compared, Restitution, Fees, Court-Appointed Attorney Repayment

Fines and Costs

Chart 3, below, shows a comparison, by fiscal year, of fines and costs collected for criminal cases. State fines are assessed for violations of state laws and are deposited for use by the school district of the county in which the violation occurred. Of the city fine receipts, which are charged for violation of municipal ordinances, 65% of the amount is returned to the city general fund, and 35% to the state general fund.

The liquidated costs figure is collected as $15.00 added to all fines for conviction of state statutes, criminal offenses, and county or municipal traffic regulations (SDCL 23-3-52). The liquidated cost assessment, which was previously $12.00. was raised to $15.00 beginning in fiscal year 1988.

The increase in the total liquidated cost amount from FY 1989 to FY 1990 is $50,971, which is a 2.5% increase for the year. The liquidated costs collected during FY 1990 amount to over two million dollars--a 32% increase over the five-year period shown. If total costs were collected this year on each case, this would mean there were 136,799 cases on which the costs were received this year, as compared with 133,400 in the previous year. This represents an apparent gain of about 2.5%. In fact, the court occasionally waives the liquidated cost assessment, or some portion of it, if there appears to be financial hardship involved for the defendant.

The total disbursement of liquidated costs is divided two ways. The following is an approximate breakdown that may not correspond precisely to the actual expenditure amounts. Of the total $2,051,979, 73% ($1,497,945) is to be used, according to SDCL 23-3-55, for law enforcement training, highway safety law enforcement training, the operation of the statewide drug enforcement unit, state law enforcement equipment, the state crime laboratory, the training of corrections personnel, the training of prosecutors and Unified Judicial System personnel, and for other law enforcement purposes.

The remaining portion, about 27% ($554,034), is returned to the counties on a percentage basis for the payment of public defenders and court-appointed attorneys representing low-income defendants accused of crimes. This money is to be distributed annually by the state treasurer according to SDCL 23-3-53. See table 9 on page 27, for a county-by-county distribution of these funds.

State fine receipts have decreased slightly but steadily from FY 1987 through 1989, but in 1990 there is approximately a 4% increase. The rise in state fines this year probably reflects a corresponding increase in traffic-offense fines.

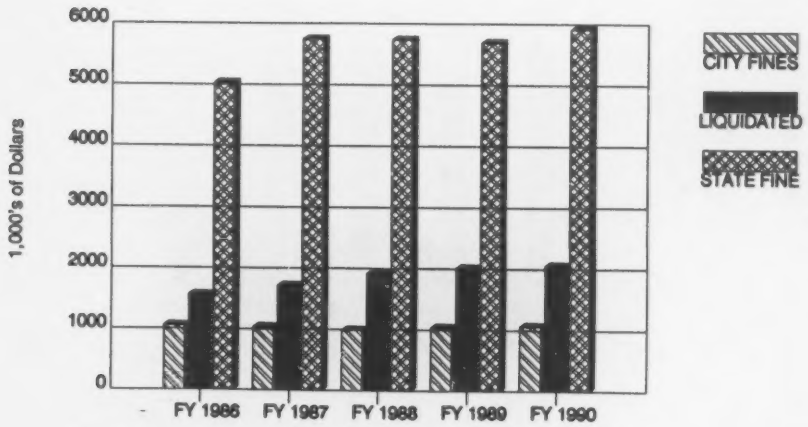


Chart 3. Selected Receipts Compared, Fines and Liquidated Costs

Child Support

In chart 4, in addition to total receipts, the two categories that comprise the largest share of money handled by the courts--child support and state fines--are also presented. Over the past four years, total receipts and child support receipts show a gradual increase. Child support payments have increased by 30% since 1986, as they continue the rising trend that has been evident for more than five years.

State fines have remained fairly stable over the past five years, increasing slightly in FY 1990.

Child support payments, the largest single component of receipts processed by the clerks' offices, represent a significant service performed by the courts for the public. The clerks of court in these cases serve as bookkeeper and collection agency for the recipient parent, and ensure that the paying parent discharges the responsibility required by the courts.

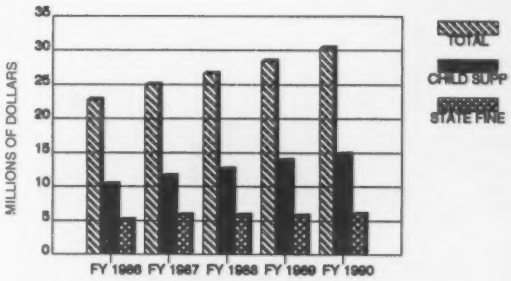


Chart 4. Selected Receipts Compared, Total, Child Support, State Fines

Disbursements

Chart 5 shows funds disbursed by the clerks of court to the state and its political subdivisions. Funds remitted to the counties include state fine amounts returned for school districts in accordance with Article VIII, Section 3 of the South Dakota Constitution. Changes over the years in these disbursements reflect the state-fine amounts shown on Table 3.

Disbursements to the cities are primarily city fines collected. They have increased slightly for the second consecutive year after four years of steady decline. The amount remitted to the cities is about 65% of the city fines collected. The remaining 35% is remitted to the state.

Amounts remitted to the state include liquidated costs and the 35% portion of city fines indicated above. Liquidated costs were increased in 1988 from $12 per case to $15 per case.

Disbursements to the counties include state fines, costs and forfeitures, and various fees for civil filings. Amounts remitted to the counties have increased this year after two years of decline.

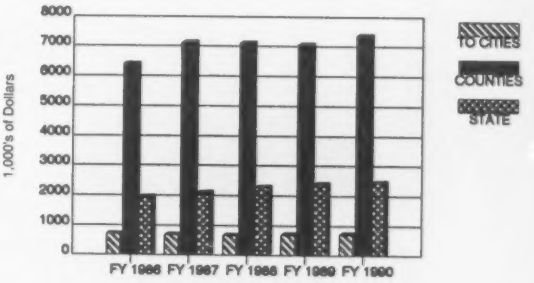


Chart 5. Selected Disbursements Compared

COMPARISON OF STATE FINES, BY COUNTY AND CIRCUIT: FROM FY 1986 TO FY 1990

COUNTIES:	FY 1986	FY 1989	FY 1990	% CHANGE FY86-FY90
1st Circuit				
Bon Homme	$28,759	$44,461	$41,198	43.3%
Charles Mix	65,650	79,317	58,983	-10.2%
Clay	85,464	116,269	115,527	35.2%
Douglas	10,167	38,508	21,109	107.6%
Hutchinson	42,053	49,915	39,426	-6.2%
Lincoln	70,434	116,973	119,815	70.1%
Turner	19,446	30,603	32,428	66.8%
Union	328,051	396,053	502,374	53.1%
Yankton	188,894	215,259	227,638	20.5%
TOTAL	$838,918	$1,087,358	$1,158,498	38.1%
2nd Circuit				
Minnehaha	$693,800	$725,526	$844,578	21.7%
3rd Circuit				
Beadle	$122,602	$145,085	$141,346	15.3%
Brookings	165,228	156,071	164,798	-0.3%
Clark	31,446	32,195	31,680	0.7%
Codington	137,806	142,030	120,336	-12.7%
Deuel	36,984	45,608	44,779	21.1%
Grant	26,459	50,162	67,462	155.0%
Hamlin	27,661	33,274	27,807	0.5%
Hand	23,623	33,223	28,159	19.2%
Kingsbury	26,159	29,248	26,118	-0.2%
TOTAL	$597,968	$666,896	$652,485	9.1%
4th Circuit				
Aurora	$32,450	$35,305	$28,249	-12.9%
Brule	37,413	57,341	62,827	67.9%
Buffalo	1,408	1,505	935	-33.6%
Davison	118,725	147,772	141,476	19.2%
Hanson	12,891	27,520	18,955	47.0%
Jerauld	21,875	25,627	42,179	92.8%
Lake	45,538	53,822	54,001	18.6%
McCook	35,401	50,981	36,992	4.5%
Miner	21,333	23,406	22,595	5.9%
Moody	71,947	102,987	104,227	44.9%
Sanborn	19,489	17,735	20,285	4.1%
TOTAL	$418,470	$544,001	$532,721	27.3%
State Total:	$5,029,430	$5,689,337	$5,913,252	17.6%

COUNTIES:	FY 1986	FY 1989	FY 1990	% CHANGE FY86-FY90
5th Circuit				
Brown	$188,033	$227,290	$248,323	32.1%
Campbell	8,234	9,575	10,874	32.1%
Day	49,152	54,717	48,060	-2.2%
Edmunds	36,749	25,574	26,662	-27.4%
Faulk	23,057	26,466	14,876	-35.5%
Marshall	23,721	32,751	31,052	30.9%
McPherson	5,986	6,675	5,152	-13.9%
Roberts	130,616	144,890	144,615	10.7%
Spink	58,815	56,816	52,906	-10.0%
Walworth	79,726	83,578	82,413	3.4%
TOTAL	$604,089	$668,332	$664,933	10.1%
6th Circuit				
Bennett	$29,983	$21,416	$31,686	5.7%
Gregory	28,637	31,787	25,752	-10.1%
Haakon	12,245	22,193	20,330	66.0%
Hughes	127,870	151,253	134,338	5.1%
Hyde	8,599	16,895	16,914	96.7%
Jackson	30,534	92,947	91,455	199.5%
Jones	9,837	26,801	28,407	188.8%
Lyman	39,116	104,003	98,946	153.0%
Mellette	5,685	7,603	7,507	32.0%
Potter	18,400	37,252	26,999	46.7%
Stanley	70,461	49,553	40,104	-43.1%
Sully	9,500	19,851	20,393	114.7%
Todd-Tripp	74,721	74,680	70,566	-5.6%
TOTAL	$465,588	$656,234	$613,397	31.7%
7th Circuit				
Custer	$61,450	$70,354	$75,544	22.9%
Fall River	74,142	65,583	63,135	-14.8%
Pennington	454,081	491,061	538,845	18.7%
TOTAL	$589,673	$626,998	$677,524	14.9%
8th Circuit				
Butte	$69,557	$54,159	$65,777	-5.4%
Corson	18,150	22,648	18,430	1.5%
Dewey	12,378	7,835	10,424	-15.8%
Harding	49,252	20,042	21,516	-56.3%
Lawrence	267,720	230,999	279,333	4.3%
Meade	364,293	350,144	347,811	-4.5%
Perkins	30,860	24,318	21,674	-29.8%
Ziebach	8,714	3,847	4,151	-52.4%
TOTAL	$820,924	$713,992	$769,116	-6.3%

Table 8. State Fine Receipts Compared by County & Circuit

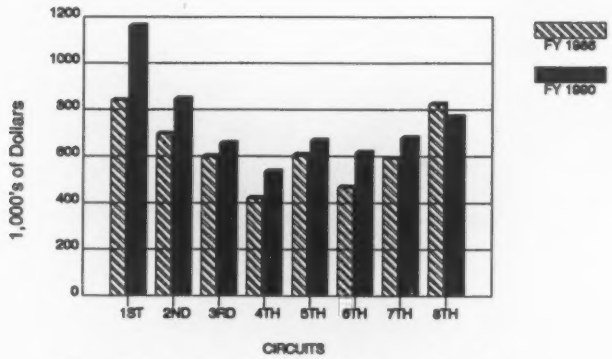


Chart 6. State Fine Receipts Compared by Circuit
FY86-FY 90

Comparison of State Fines

In Table 8 on the preceding page, total state fine receipts are compared between fiscal years 1986, 1989 and 1990. The associated graphics on chart 6 show a comparison of state fine receipts between FY 1986 and FY 1990, and on chart 7 from FY 1988 through FY 1990.

Chart 6 shows that receipts from state fines increased in all circuits except the eighth during the five-year period shown. The total increase statewide for the period was 17.6 %. The first circuit, which handles the largest total receipt amounts, also shows the largest percent of increase (38.1%) during the period. In the first circuit for FY 1990, Table 8 shows that the combined receipts of Union County (which exceeded half-a-million dollars this year) and Yankton County are greater than those of five circuits. This is apparently due to the high level of activity at the truck weigh stations in those two counties. Lawrence and Meade Counties also showed receipts of over $200,000.

Chart 7, showing receipts for the past three years, indicates that the first and second circuit receipts seem to be steadily increasing, and those of the fifth circuit decreasing, but there is not a discernible three-year pattern for the remainder of the circuits.

The comparison of state fines in Table 8 also shows the percent change for the five-year period for each county. Among the counties showing substantial increases over the period were Grant, Brule, Jerauld, Jackson, Jones and Lyman.

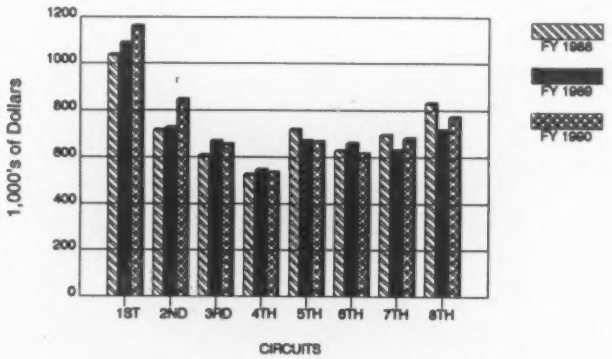


Chart 7. State Fine Receipts Compared Circuit
FY 88-FY 90

Court Appointed Attorney Costs

Table 9, page 27, shows costs and repayment for court-appointed attorneys and public defenders. Chart 8 is a graphic summary comparison of court-appointed attorney costs and repayment by circuit for FY 1990. Minnehaha (second circuit) and Pennington (seventh circuit) are the two counties that use their own public defender system. This means that the county pays a full-time legal staff to provide for the defense of economically disadvantaged persons accused of crime. Lawrence and Butte Counties (eighth circuit) also share a full-time public-defender office.

The data presented in these tables applies only to defense for felonies and class-one misdemeanors. Some counties, such as Lawrence and Butte, also occasionally employ court-appointed counsel in defense of class-two misdemeanant offenders.

There are also a significant number of court-appointments for juvenile offenders. The cost of these appointments is included in the data, but the appointments are not included. This means there is a possibility of distortion in the county data on Table 10. On that table, in which the total cost is divided by class-one misdemeanor and felony court appointments, the cost may appear higher than it actually is because the cost figure includes the cost of attorneys appointed for juvenile actions that may not be class-one misdemeanor or felony violations.

In counties where there is no public defender system, judges or magistrates appoint local attorneys to defend indigent defendants. Repayment policies are the same for both types of county. Generally, the defendant, regardless of whether he is convicted, is expected to repay the cost of the court-appointed attorney. If repayment is not made, the county may file a lien against the defendant for the court-appointed attorney cost.

In addition to the costs repaid by the defendant, state law has established a court-appointed attorney fund, into which is paid $4.00 as costs from each criminal conviction, including traffic violations (The fund is discussed on page 21). The fund this year has provided an allocation to each county of approximately 21% of the court-appointed attorney costs incurred. This figure is shown in the second numerical column on Table 9.

The date on Table 10, page 28, shows an approximate average cost to the county for each court-appointed attorney case. This is computed by dividing the total payment for the fiscal year by the total number of court appointment cases.

Table 10 also shows the percent of total class-one misdemeanor and felony filings that result in court appointment of an attorney. The state average is that 37% (about one out of three) of such filings result in the appointment of an attorney at county expense. This percentage is similar to that of the previous year, but reflects an increase in the total cost of court-appointed attorneys from '89 to '90.

State-wide, the cost of court appointed counsel has increased by $254,772 (about 10.5%) during the year, as compared with an 8% increase the previous year. This type of cost is difficult to predict from year to year because it depends on the number of serious criminal prosecutions that might develop in any county. The costs for the second circuit (Minnehaha County), for example, increased from FY 1986 to FY 1987 by $252,797, primarily through the prosecution of three extensive criminal trials. That increase would represent almost 10% of this year's total expenditure.

Chart 8 compares both cost and payback by circuit for FY 1990. The total cost of court appointments decreased in the second, fifth and seventh circuits, and increased in the remaining five. Although the 1989 data are not shown, there was a 38% increase in the total court-appointed attorney payments in the first circuit, and a 59% increase in the sixth circuit during FY 1990.

Chart 9, which shows a comparison of cost and payback since 1986, illustrates the rise in court-appointed attorney costs of over $400,000 for the past three years.

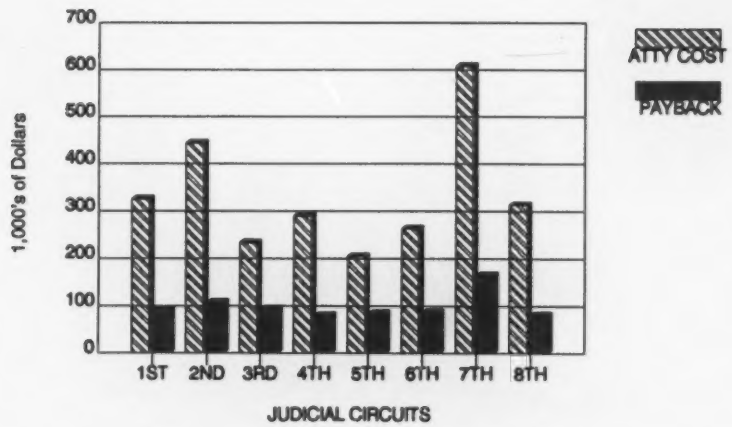


Chart 8. Court Appointed Attorney Repayment, by Circuit

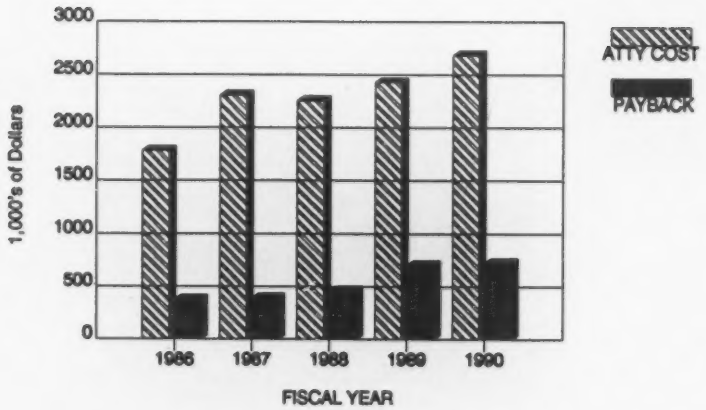


Chart 9. Court-Appointed Attorney Cost Payback by Fiscal Year

COUNTY EXPENDITURES AND REPAYMENT FOR COURT APPOINTED ATTORNEYS

COUNTIES	Paid by County	Allocated by Statute	Paid by Defendant	Percent Repaid
1st Circuit				
Bon Homme	$3,176	$660	$0	21%
Charles Mix	42,998	8,937	1,883	25%
Clay	49,928	10,377	1,865	25%
Douglas	4,224	877	0	21%
Hutchinson	5,830	1,212	3,524	81%
Lincoln	69,394	14,422	2,624	25%
Turner	8,183	1,701	1,640	41%
Union	32,384	6,731	2,681	29%
Yankton	108,771	22,606	8,433	29%
TOTAL	$324,888	$67,523	$22,650	28%
2nd Circuit				
Minnehaha	$443,231	$92,219	$15,396	24%
3rd Circuit				
Beadle	$50,880	$10,575	$11,900	44%
Brookings	38,876	8,080	11,904	51%
Clark	12,119	2,519	811	27%
Codington	91,039	18,921	11,344	33%
Deuel	10,596	2,202	1,911	39%
Grant	3,312	688	1,855	77%
Hamlin	4,737	984	3,012	84%
Hand	16,280	3,384	515	24%
Kingsbury	5,399	1,122	2,435	66%
TOTAL	$233,238	$48,475	$45,687	40%
4th Circuit				
Aurora	$10,027	$2,084	$1,200	33%
Brule	76,753	15,952	139	21%
Buffalo	293	61	0	21%
Davison	104,982	21,819	3,117	24%
Hanson	8,226	1,710	0	21%
Jerauld	4,903	1,019	787	37%
Lake	17,733	3,686	4,974	49%
McCook	34,257	7,120	4,041	33%
Miner	5,624	1,169	769	34%
Moody	24,027	4,994	4,643	40%
Sanborn	2,698	561	250	30%
TOTAL	$289,523	$60,175	$19,920	28%
State Totals	$2,679,272	$556,949	$233,728	30%

COUNTIES	Paid by County	Allocated by Statute	Paid by Defendant	Percent Repaid
5th Circuit				
Brown	$112,821	$23,448	$24,251	42%
Campbell	310	64	0	21%
Day	15,332	3,186	3,465	43%
Edmunds	1,384	288	639	67%
Faulk	426	89	339	100%
Marshall	5,533	1,150	930	38%
McPherson	4,128	858	430	31%
Roberts	28,876	6,001	4,823	37%
Spink	18,916	3,931	5,246	49%
Walworth	17,184	3,571	1,940	32%
TOTAL	$204,910	$42,586	$42,063	41%
6th Circuit				
Bennett	$11,006	$2,287	$1,129	31%
Gregory	7,989	1,660	127	22%
Haakon	10,477	2,177	0	21%
Hughes	121,422	25,236	22,300	39%
Hyde	2,024	421	637	52%
Jackson	7,541	1,567	1,467	40%
Jones	1,839	382	1,117	82%
Lyman	30,043	6,244	1,205	25%
Mellette	3,347	696	737	43%
Potter	6,096	1,267	0	21%
Stanley	13,217	2,747	3,526	47%
Sully	1,668	347	100	27%
Todd-Tripp	45,918	9,543	316	21%
TOTAL	$262,587	$54,574	$32,661	33%
7th Circuit				
Custer	$27,286	$5,671	$135	21%
Fall River	49,025	10,189	9,155	39%
Pennington	531,521	110,472	30,271	26%
TOTAL	$607,832	$126,332	$39,561	27%
8th Circuit				
Butte	$70,392	$14,630	$606	22%
Corson	3,525	733	670	40%
Dewey	4,780	993	550	32%
Harding	6,025	1,252	300	26%
Lawrence	121,860	25,327	444	21%
Meade	94,416	19,623	12,020	34%
Perkins	11,059	2,298	1,200	32%
Ziebach	1,006	209	0	21%
TOTAL	$313,063	$65,065	$15,790	26%

Table 9. County Expenditures and Repayment for Court-Appointed Attorneys and Public Defenders

COURT-APPOINTMENT CASES AND COSTS

COUNTIES	Paid by County	Appts.	Misd. 1 & Felony	Avg. Pmt.	Appts. / Filings
1st Circuit					
Bon Homme	$3,176	7	74	$454	9%
Charles Mix	42,998	61	232	705	26%
Clay	49,928	39	284	1,280	14%
Douglas	4,224	2	11	2,112	18%
Hutchinson	5,830	10	50	583	20%
Lincoln	69,394	48	231	1,446	21%
Turner	8,183	11	97	744	11%
Union	32,384	37	292	875	13%
Yankton	108,771	135	587	806	23%
TOTAL	$324,888	350	1,858	$928	19%
2nd Circuit					
Minnehaha	$443,231	2279	5166	$194	44%
3rd Circuit					
Beadle	$50,880	90	299	$565	30%
Brookings	38,876	83	487	468	17%
Clark	12,119	21	68	577	31%
Codington	91,039	159	443	573	36%
Deuel	10,596	23	97	461	24%
Grant	3,312	13	90	255	14%
Hamlin	4,737	8	42	592	19%
Hand	16,280	14	35	1,163	40%
Kingsbury	5,399	12	33	450	36%
TOTAL	$233,238	423	1,594	$551	27%
4th Circuit					
Aurora	$10,027	4	35	$2,507	11%
Brule	76,753	34	148	2,257	23%
Buffalo	293	0	1	0	0%
Davison	104,982	161	398	652	40%
Hanson	8,226	16	36	514	44%
Jerauld	4,903	9	21	545	43%
Lake	17,733	41	155	433	26%
McCook	34,257	34	78	1,008	44%
Miner	5,624	9	46	625	20%
Moody	24,027	47	200	511	24%
Sanborn	2,698	6	29	450	21%
TOTAL	$289,523	361	1,147	$802	31%
State Totals	$2,679,272	6,785	18,405	$395	37%

COUNTIES	Paid by County	Appts.	Misd. 1 & Felony	Avg. Pmt.	Appts. / Filings
5th Circuit					
Brown	$112,821	266	1068	$424	25%
Campbell	310	1	9	310	11%
Day	15,332	32	112	479	29%
Edmunds	1,384	2	40	692	5%
Faulk	426	2	13	213	15%
Marshall	5,533	16	91	346	18%
McPherson	4,128	4	18	1,032	22%
Roberts	28,876	101	266	286	38%
Spink	18,916	21	113	901	19%
Walworth	17,184	32	167	537	19%
TOTAL	$204,910	477	1,897	$430	25%
6th Circuit					
Bennett	$11,006	75	132	$147	57%
Gregory	7,989	20	54	399	37%
Haakon	10,477	14	42	748	33%
Hughes	121,422	240	613	506	39%
Hyde	2,024	2	12	1,012	17%
Jackson	7,541	15	73	503	21%
Jones	1,839	2	22	920	9%
Lyman	30,043	31	84	969	37%
Mellette	3,347	21	48	159	44%
Potter	6,096	7	57	871	12%
Stanley	13,217	34	93	389	37%
Sully	1,668	5	15	334	33%
Todd-Tripp	45,918	70	178	656	39%
TOTAL	$262,587	536	1,423	$490	38%
7th Circuit					
Custer	$27,286	58	159	$470	36%
Fall River	49,025	105	238	467	44%
Pennington	531,521	1735	3350	306	52%
TOTAL	$607,832	1,898	3,747	$320	51%
8th Circuit					
Butte	$70,392	77	210	$914	37%
Corson	3,525	6	25	588	24%
Dewey	4,780	5	26	956	19%
Harding	6,025	3	11	2,008	27%
Lawrence	121,860	218	730	559	30%
Meade	94,416	143	523	660	27%
Perkins	11,059	5	41	2,212	12%
Ziebach	1,006	4	7	252	57%
TOTAL	$313,063	461	1,573	$679	29%

Table 10. Average Cost per Court Appointment, by County

JUDGE OR MAGISTRATE	MILEAGE
First Circuit:	
Humphrey	13,208
Hertz	8,434
Tapken	7,550
Bogue	6,946
Kern	6,781
Cody	6,418
Marmet	4,593
Total	53,930
Second Circuit:	
Meierhenry	1,582
Kean	570
Amundson	470
Heege	470
Total	3,092
Third Circuit:	
Bingner	7,036
Erickson	6,424
Brekke	5,721
Steele	5,452
Bradshaw	4,502
Timm	3,854
Martin	3,088
Total	36,077
Fourth Circuit:	
Miller	11,883
Tucker	9,488
Sage	6,928
Gerken	5,475
McMurchie	4,717
Kiner	2,558
Total	41,049

JUDGE OR MAGISTRATE	MILEAGE
Fifth Circuit:	
Gilbertson	21,458
Berndt	13,191
Dobberpuhl	10,966
Evans	10,522
Lovrien	6,834
Glynn	4,578
Olander	1,068
Total	68,617
Sixth Circuit:	
Heck	11,758
Mc Keever	10,344
Talbott	6,933
Anderson	4,492
Zinter	1,499
Gors	536
Total	35,562
Seventh Circuit:	
O'Connor	5,502
Tice	1,406
Davis	148
Konenkamp	2,760
Grosshans	1,170
Young	3,275
Total	14,261
Eighth Circuit:	
Tschetter	6,522
Johns	8,420
Johnson	2,334
Moses	9,441
Severns	2340
Total	29,057
State Total	281,645

Table 11. Travel by Judicial Personnel

Travel by Circuit Personnel

Tables 11 and 12, and chart 10, show the miles traveled by certain circuit personnel throughout the state in the performance of their professional duties. Judges and magistrates are listed in Table 11, and court services officers in Table 12. The tables list the two groups by circuit in the order of the miles traveled by each individual, the those showing the highest mileage being at the top in each circuit. The chart shows the totals by circuit for each of the two groups.

Patterns of travel for FY 1990 are generally similar to FY 1989 in most circuits. In the fifth circuit, judge travel has increased over last year, while in other circuits, it appears that judges are travelling less. Travel for court services officers has increased slightly in the third and fifth circuits, and is decreasing in most others.

OFFICER	MILEAGE
First Circuit:	
Lehr	13,414
Hall	9,526
McCabe	7,150
Nelsen	4,945
Foltz	2,775
McNeely	1,607
Dringman	1,310
Total	40,727
Second Circuit:	
Bahnson	4,455
Wildes	3,327
Jaqua	2,367
LeMair	2,037
Grove	1,456
Hurtgen	1,375
Murphy	1,032
Adler	901
Anderson	464
Hansum	399
Sondgeroth	92
Total	17,905
Third Circuit:	
Goldsmith	9,712
Mead	4,542
Ramynke	3,494
Danforth	1,930
Kjellsen	1,524
Moen	1,180
Mielke	514
Butler	450
Frost	0
Total	23,346
Fourth Circuit:	
Johnson	6,053
Ibis	3,726
Adair	3,678
Fraser	2,558
Kary	2,282
Hieb	1,622
Janssen	625
Fisher	588
Wilkowski	242
Total	19,919

OFFICER	MILEAGE
Fifth Circuit:	
King	14,890
Simons	11,514
Chase	8,173
Brumbaugh	7,491
Town	5,829
Archer	1,854
Sutherland	321
Hanson	208
Total	50,280
Sixth Circuit:	
Bonenberger	19,039
Bennett	15,337
Sack	12,131
Petersen	6,866
Parkinson	6,414
Olson	2,295
McTighe	2,195
Total	64,277
Seventh Circuit:	
Nagel	13,175
Wright	8,904
Krosschell	6,576
Raue	5,271
Osborne	3,844
Jones	2,491
Lillquist	2,348
LaPointe	2,182
Thompson	1,374
Fauss	1,374
Tschakert	1208
Chambers	79
Hultman	20
Total	48,846
Eighth Circuit:	
Portwood	10,947
Vodopich	1,015
Todd	1,096
Meyer	1,260
DeKraai	897
Allard	486
Total	15,701
State Total	281,001

Table 12. Travel by Court Services Personnel

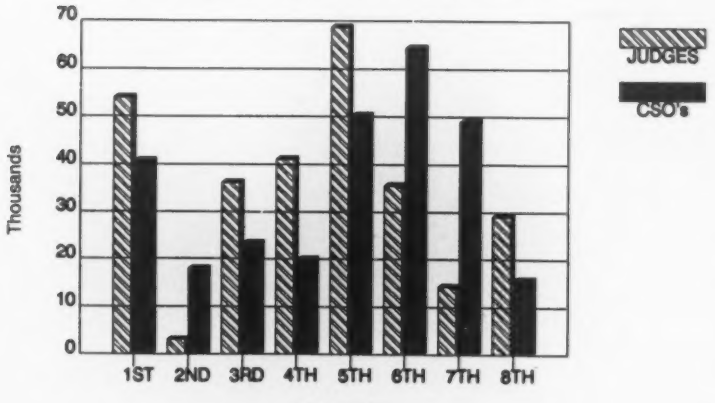


Chart 10. Mileage Comparison by Circuit

CASELOAD DATA

Comparison of Court Services Activities by Fiscal Year

SERVICE CATEGORY	First Circuit		Second Circuit		Third Circuit		Fourth Circuit		Fifth Circuit		Sixth Circuit		Seventh Circuit		Eighth Circuit		State Totals	
	fy89	*fy90*	*fy89*	*fy90*	*fy89*	*fy90*	*fy89*	*fy90*	*fy89*	*fy90*	*fy89*	*fy90*	*fy89*	*fy90*	*fy89*	*fy90*	*fy89*	*fy90*
Juvenile Service:																		
90-Day Diversion Services	367	492	180	843	248	188	180	155	171	219	410	434	129	118	123	126	1808	2575
Prehearing Investigations	120	140	509	636	53	32	135	136	17	19	26	32	240	204	1	8	1101	1207
90-Day Informal Adjustments	16	11	22	21	6	11	7	7	3	3	3	4	5	21	3	0	65	78
Placed on Probation	132	184	228	232	218	174	151	130	196	176	72	81	232	312	174	211	1403	1500
On Probation at End of FY	158	185	160	170	90	78	88	86	132	107	50	64	195	225	144	186	1017	1101
Adult Service, Misdemeanor:																		
PSI Reports	88	88	38	8	17	17	71	70	1	0	12	13	1221	1122	6	1	1454	1319
Placed on Probation	66	54	34	11	158	131	29	33	180	191	15	18	91	99	52	40	625	577
Active Probationers, End FY	64	49	78	54	115	112	42	41	108	151	16	20	98	85	41	40	562	552
Adult Service, Felony:																		
PSI Reports	73	95	285	358	121	165	72	84	28	47	64	92	372	423	87	87	1102	1351
Placed on Probation	52	76	161	252	85	95	41	53	128	130	43	72	206	233	87	99	803	1010
Active Probationers, End FY	130	144	371	498	125	148	85	84	214	220	120	146	317	362	120	147	1482	1749
90-Day Case Monitoring Program:																		
Placed in Programs	73	71	600	430	432	345	62	52	78	35	265	258	1244	1143	0	1	2754	2335
Active Cases, End FY	34	14	92	55	85	19	15	10	23	2	36	53	233	249	0	0	518	402
Domestic Relations Cases:																		
Divorce Custody Investigations	3	8	0	0	0	0	3	1	2	1	1	1	0	0	0	0	9	11
Custody Visitation Monitoring	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Adoption Investigations	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Divorce Custody Mediations	1	0	0	0	0	0	0	0	0	0	3	2	20	13	0	1	24	16
Interstate Compact Caseload:																		
Placed on Probation - Out	6	7	5	10	4	5	1	6	5	9	2	4	12	10	24	23	59	74
Placed on Probation - In	11	14	18	8	9	5	6	6	2	5	1	5	33	28	15	9	95	80
Active Probationers In, End FY	11	17	51	31	16	1	7	10	7	10	6	6	36	39	18	15	152	129

Table 13. Comparison of Court Services Activities by Fiscal Year

Table 14. Civil Caseload By County, Fiscal Year 1990

	CIVIL ACTIONS							DIVORCE				SMALL CLAIMS			MISCELLANEOUS					
	Filings	Other	Adm.		Trials												Mental	Guar-	Ter-	
COUNTIES	Under $2,000	Fil-ings	Ap-peal	Hear-ings	Crt.	Jury	De-fault	Fil-ings	Hear-ings	Tri-als	De-fault	Fil-ings	Trials	De-fault	Pro-bate	Adop-tion	Ill-ness	dian-ships	mina-tions	Juvenile Petitions
1st Circuit																				
Bon Homme	11	24	0	19	1	3	16	34	2	0	25	195	6	189	69	2	3	4	2	13
Charles Mix	43	59	2	5	0	0	77	29	8	0	3	273	8	214	88	0	6	11	1	95
Clay	20	71	3	0	2	0	66	40	0	6	40	485	31	448	55	4	6	12	1	58
Douglas	0	6	0	0	0	0	6	3	0	0	1	52	0	44	33	1	1	0	0	9
Hutchinson	8	35	0	1	1	1	26	20	6	0	14	110	11	99	62	3	3	7	0	7
Lincoln	36	117	2	35	6	6	32	58	15	2	36	206	32	158	108	7	2	10	5	74
Turner	33	45	0	3	3	0	60	24	1	6	12	141	19	111	61	3	2	11	0	14
Union	42	111	5	92	17	0	83	43	23	14	41	244	24	173	79	6	6	14	2	23
Yankton	47	275	2	37	41	3	66	98	28	8	42	885	76	664	115	11	178	24	4	66
TOTAL	240	743	14	192	71	13	432	349	83	36	214	2591	207	2100	670	37	207	93	15	359
2nd Circuit	1396	1491	15	656	117	32	2535	936	637	92	637	3311	505	2399	464	103	266	125	58	1453
3rd Circuit																				
Beadle	29	253	0	74	59	2	263	97	22	13	39	658	77	707	110	20	6	9	1	58
Brookings	81	195	13	67	92	2	333	95	36	15	97	850	110	836	128	22	4	18	3	118
Clark	9	19	2	10	4	0	20	16	6	3	10	87	14	71	45	4	1	1	0	7
Codington	52	217	4	67	20	5	510	128	25	22	194	662	82	580	122	14	18	26	1	147
Deuel	18	22	1	3	7	0	39	10	2	0	12	97	5	85	46	1	0	6	2	18
Grant	25	46	0	13	2	2	81	33	2	9	19	148	17	156	46	3	3	12	1	23
Hamlin	7	32	0	0	1	1	43	10	2	0	5	126	3	122	45	1	0	1	0	5
Hand	12	30	0	11	2	1	61	11	1	0	7	76	7	95	37	1	0	6	1	6
Kingsbury	8	35	3	15	2	1	68	13	1	0	14	131	9	84	68	0	2	2	0	14
TOTAL	241	849	23	260	189	14	1418	413	97	62	397	2835	324	2736	647	66	34	81	9	396
4th Circuit																				
Aurora	6	14	0	14	0	0	11	11	6	0	5	58	1	51	27	2	1	4	0	16
Brule	7	46	1	15	2	3	10	18	4	9	0	245	41	240	36	5	2	21	1	53
Buffalo	0	1	0	1	0	0	0	0	1	0	0	3	0	3	3	0	0	0	0	0
Davison	92	131	5	17	15	2	153	95	64	26	13	748	73	553	126	8	5	20	0	111
Hanson	20	0	0	0	0	0	0	6	0	0	0	41	0	10	23	0	0	0	0	0
Jerauld	5	11	0	0	0	0	11	1	0	0	4	69	3	46	31	0	0	3	0	13
Lake	15	64	5	22	3	0	29	53	21	8	12	433	35	410	78	8	4	17	3	55
McCook	18	22	0	2	0	0	31	18	2	2	15	99	19	67	44	0	5	2	0	18
Miner	17	26	0	7	4	0	21	10	7	0	0	107	6	95	38	0	0	0	0	0
Moody	27	55	0	14	22	0	16	47	10	6	11	272	28	225	51	7	2	3	1	55
Sanborn	13	15	0	3	1	1	15	11	3	2	9	24	3	27	25	0	0	5	1	0
TOTAL	220	385	11	95	47	6	297	270	118	53	69	2099	209	1727	482	28	19	75	6	321

Table 14. Civil Caseload By County, Fiscal Year 1990

	CIVIL ACTIONS							DIVORCE				SMALL CLAIMS			MISCELLANEOUS					
	Filings	Other	Adm.		Trials												Mental	Guar-	Ter-	
	Under	Fil-	Ap-	Hear-			De-	Fil-	Hear-	Tri-	De-	Fil-		De-	Pro-	Adop-	Ill-	dian-	mina-	Juvenile
COUNTIES	$2,000	ings	peal	ings	Crt.	Jury	fault	ings	ings	als	fault	ings	Trials	fault	bate	tion	ness	ships	tions	Petitions
5th Circuit																				
Brown	137	486	9	101	22	4	437	167	109	18	130	1048	100	1047	190	31	14	44	17	203
Campbell	7	13	0	0	0	0	25	5	1	0	6	19	0	28	21	2	0	1	0	3
Day	40	35	0	6	3	2	67	28	0	0	22	167	32	130	87	0	0	8	0	47
Edmunds	6	20	1	0	0	0	7	15	1	0	5	63	5	61	34	1	1	7	1	6
Faulk	6	26	1	0	0	0	15	13	2	0	2	27	4	23	32	1	0	1	1	0
Marshall	1	39	2	7	4	0	11	19	1	4	13	88	3	72	50	3	1	3	0	5
McPherson	6	19	1	2	0	0	28	7	3	0	6	32	3	32	37	1	0	2	2	4
Roberts	36	74	0	0	8	0	86	35	0	4	33	129	15	109	54	1	3	14	0	61
Spink	67	38	2	42	26	0	61	58	30	17	48	181	22	151	80	8	6	19	6	28
Walworth	21	56	0	2	2	0	62	17	2	2	12	179	22	180	47	5	6	3	20	48
TOTAL	327	806	16	160	65	6	799	364	149	45	277	1933	206	1833	632	53	31	102	47	405
6th Circuit																				
Bennett	1	27	1	2	2	0	17	5	0	0	12	336	5	372	10	0	2	1	0	11
Gregory	7	51	6	0	2	1	80	12	0	0	13	116	15	101	52	2	1	6	0	15
Haakon	10	15	0	7	0	0	14	9	7	0	0	113	4	108	23	1	0	3	0	13
Hughes	120	346	32	98	38	2	397	80	18	6	56	502	71	423	77	10	24	17	7	57
Hyde	9	14	0	0	8	0	7	2	0	4	2	51	3	39	23	0	1	0	0	3
Jackson	4	18	0	0	1	0	17	5	0	0	2	34	0	24	13	0	2	2	0	1
Jones	6	8	0	1	1	0	10	4	0	0	3	41	3	33	10	1	0	0	0	0
Lyman	46	62	8	7	6	2	35	9	8	2	3	93	15	76	50	2	9	6	0	13
Mellette	1	12	0	0	0	0	4	9	0	0	5	14	0	7	11	1	0	7	0	14
Potter	11	29	0	0	4	0	23	12	2	1	13	48	4	46	28	0	1	1	0	3
Stanley	23	39	3	4	2	0	102	20	3	0	25	90	17	119	17	1	1	5	1	1
Sully	7	13	0	0	0	0	8	4	0	0	6	18	6	11	16	1	0	2	0	0
Todd-Tripp	28	94	4	25	5	2	59	43	6	0	21	184	18	225	69	3	8	4	0	44
TOTAL	273	728	54	144	69	7	773	214	44	13	161	1640	161	1584	399	22	49	54	8	175
7th Circuit																				
Custer	33	62	2	66	3	4	45	39	2	0	30	209	20	162	39	8	6	11	3	31
Fall River	0	162	1	12	5	0	76	46	0	1	41	171	20	125	59	7	31	4	1	26
Pennington	474	1224	27	212	47	11	1049	702	309	34	393	3619	611	1607	274	69	258	106	127	560
TOTAL	507	1448	30	290	55	15	1170	787	311	35	464	3999	651	1894	372	84	295	121	131	617
8th Circuit																				
Butte	44	89	2	97	1	2	118	37	10	1	34	152	22	140	60	3	11	9	0	48
Corson	5	28	1	1	1	0	13	6	2	0	3	24	16	12	18	0	0	0	0	15
Dewey	3	15	1	0	0	0	4	0	0	0	0	31	0	13	16	1	0	1	0	8
Harding	3	4	1	0	0	0	0	3	0	0	2	31	2	22	27	0	0	1	0	7
Lawrence	65	310	39	225	27	7	200	142	116	130	95	656	73	829	95	16	18	27	4	132
Meade	44	214	1	48	32	3	142	122	27	16	101	422	51	366	62	16	37	17	3	94
Perkins	21	40	2	0	0	0	42	14	0	0	6	36	11	37	50	4	4	2	1	22
Ziebach	1	3	0	0	0	0	0	2	0	0	2	7	0	6	6	0	0	0	0	2
TOTAL	186	703	47	371	61	12	519	326	155	147	243	1359	175	1425	334	40	70	57	8	328
State Totals	3390	7153	210	2168	674	105	7943	3659	1594	483	2462	19767	2438	15698	4000	433	971	708	282	4054

Table 15. Criminal Caseload By County, Fiscal Year 1990

		CLASS TWO MISDEMEANOR				CLASS ONE MISDEMEANOR						FELONY					
										Trials						Trials	
COUNTIES	Petty Offense Filings	Filings	Guilty Pleas	Dismissals	Trials	Filings	Prelim. Hrgs.	Guilty Pleas	Dismissals	Crt.	Jury	Filings	Prelim. Hrgs	Guilty Pleas	Dismissals	Crt.	Jury
1st Circuit																	
Bon Homme	8	823	756	18	10	56	3	45	11	25	8	8	4	8	1	2	0
Charles Mix	0	965	786	77	22	149	22	151	28	0	2	67	18	15	12	0	4
Clay	10	2755	2565	77	33	229	36	213	10	1	2	69	7	24	5	0	2
Douglas	0	381	334	9	5	14	0	7	0	3	0	3	2	1	1	1	0
Hutchinson	0	793	722	14	15	37	5	27	3	2	0	14	0	12	5	0	1
Lincoln	15	3440	2959	177	71	188	24	134	26	3	0	44	14	8	16	0	1
Turner	5	936	845	63	0	54	7	47	20	0	1	13	3	6	19	0	1
Union	19	8569	7683	167	32	217	38	193	21	0	4	72	25	22	27	0	3
Yankton	61	4748	3941	259	56	391	74	304	53	3	4	239	40	40	63	0	4
TOTAL	118	23410	20591	861	244	1335	209	1121	172	37	21	529	113	136	149	3	16
2nd Circuit																	
Minnehaha	1046	44201	29997	10313	1269	3914	520	2389	967	23	37	1346	61	389	484	5	30
3rd Circuit																	
Beadle	11	3933	3572	218	46	218	67	166	34	3	3	89	26	43	23	0	8
Brookings	13	3539	3109	191	89	408	102	334	57	3	5	92	20	50	29	0	1
Clark	2	609	560	23	2	55	7	32	19	0	1	17	5	6	5	0	2
Codington	9	3980	3471	349	26	321	71	275	33	9	5	157	49	83	20	1	3
Deuel	9	834	699	42	6	61	6	44	14	0	1	40	4	6	26	0	2
Grant	8	833	772	16	3	75	13	66	10	2	1	8	3	7	1	0	0
Hamlin	0	543	479	21	7	28	2	21	4	2	0	12	3	8	3	0	0
Hand	0	530	465	18	2	37	3	13	11	0	0	14	2	1	8	0	0
Kingsbury	1	611	576	18	8	24	5	18	3	1	0	17	5	6	4	0	0
TOTAL	53	15412	13703	896	189	1227	276	969	185	20	16	446	117	210	119	1	16
4th Circuit																	
Aurora	2	507	463	13	3	29	4	18	4	0	1	12	5	1	4	0	3
Brule	9	1115	810	46	9	116	28	92	17	0	0	43	9	12	19	0	0
Buffalo	0	19	15	2	0	1	0	1	0	0	0	1	0	0	0	0	0
Davison	5	3638	2985	336	19	270	24	210	62	0	2	130	11	35	51	0	4
Hanson	1	337	324	9	0	24	12	19	11	0	0	3	0	0	4	0	0
Jerauld	1	372	329	1	3	15	3	11	1	0	0	8	2	3	2	0	0
Lake	15	1729	1555	106	30	123	43	85	21	1	5	35	8	18	12	0	3
McCook	4	779	684	22	7	52	12	37	9	0	2	35	9	2	13	0	4
Miner	5	464	378	4	2	35	10	34	1	0	1	3	0	3	0	0	0
Moody	4	2344	1821	115	16	165	30	119	24	2	4	37	6	12	18	0	5
Sanborn	0	424	377	19	2	22	8	14	5	0	1	14	1	1	6	0	0
TOTAL	46	11728	9741	673	91	852	174	640	155	3	16	321	51	87	129	0	19

Table 15. Criminal Caseload By County, Fiscal Year 1990

		CLASS TWO MISDEMEANOR				CLASS ONE MISDEMEANOR						FELONY					
COUNTIES	Petty Offense Filings	Filings	Guilty Pleas	Dismissals	Trials	Filings	Prelim. Hrgs.	Guilty Pleas	Dismissals	Trials Crt.	Trials Jury	Filings	Prelim. Hrgs	Guilty Pleas	Dismissals	Trials Crt.	Trials Jury
5th Circuit																	
Brown	89	7408	6320	790	37	810	69	590	180	4	2	238	30	107	106	1	1
Campbell	1	187	179	2	0	9	1	7	1	0	0	1	0	0	1	0	0
Day	7	920	829	87	2	93	7	76	12	1	1	27	1	14	5	0	0
Edmunds	11	765	705	17	1	34	2	29	1	0	0	6	1	4	2	1	0
Faulk	0	295	250	8	11	10	1	5	4	0	0	2	0	1	2	0	0
Marshall	0	510	442	43	0	72	1	65	6	0	0	21	0	7	7	0	0
McPherson	2	84	81	2	1	8	0	6	1	0	0	8	3	6	3	0	0
Roberts	1	2416	2257	75	3	184	3	150	21	1	1	76	6	38	35	0	2
Spink	2	1244	1171	12	16	84	10	66	6	0	0	31	3	25	12	1	0
Walworth	2	1538	1396	47	1	119	2	107	9	0	0	50	4	19	10	0	0
TOTAL	115	15367	13630	1083	72	1423	96	1101	241	6	4	460	48	221	183	3	3
6th Circuit																	
Bennett	8	790	636	48	6	101	8	57	17	1	0	38	9	12	4	0	0
Gregory	2	472	428	33	0	30	6	18	5	0	0	14	4	1	3	0	1
Haakon	5	424	391	4	1	28	3	23	6	0	0	9	0	7	1	0	1
Hughes	13	3759	3185	570	79	498	81	324	63	0	4	128	23	42	26	0	3
Hyde	1	284	269	9	4	7	2	4	1	0	1	1	3	3	1	0	0
Jackson	20	1943	1668	40	4	81	9	39	12	0	1	8	2	5	2	0	0
Jones	9	557	537	11	2	19	3	16	1	0	1	5	0	1	3	0	0
Lyman	9	1944	1779	27	6	62	8	38	4	0	1	21	15	15	14	2	1
Mellette	2	146	144	8	2	50	7	31	3	1	0	9	4	2	2	0	1
Potter	0	518	342	26	0	36	6	27	8	0	0	15	5	7	6	0	2
Stanley	2	951	894	33	19	78	12	61	7	2	1	10	3	1	6	0	0
Sully	1	323	298	8	4	10	3	11	1	0	0	4	0	1	0	0	0
Todd-Tripp	21	1215	1104	83	10	109	35	94	13	0	5	67	15	31	16	1	6
TOTAL	93	13326	11675	900	137	1109	183	743	141	4	14	329	83	128	84	3	15
7th Circuit																	
Custer	5	1627	1384	78	26	137	28	79	19	1	2	46	14	10	19	0	1
Fall River	8	1388	1101	165	12	181	37	142	22	1	1	89	27	23	9	1	2
Pennington	474	19918	10322	769	97	1969	573	1322	404	14	29	695	401	326	122	4	40
TOTAL	487	22933	12807	1012	135	2287	638	1543	445	16	32	830	442	359	150	5	43
8th Circuit																	
Butte	3	1241	1014	101	55	143	4	113	23	4	2	44	1	27	15	0	2
Corson	5	469	364	7	2	16	8	18	4	0	0	3	3	2	0	0	0
Dewey	0	192	169	3	3	24	5	19	2	0	0	5	3	4	0	0	0
Harding	2	465	433	2	0	7	0	7	0	0	0	4	1	3	0	0	0
Lawrence	48	4325	3645	272	47	569	27	403	54	13	6	197	7	92	25	3	10
Meade	181	5276	4617	417	40	388	66	290	69	3	5	137	55	78	39	0	4
Perkins	1	372	349	5	1	33	8	26	3	0	1	10	4	3	3	0	1
Ziebach	1	84	72	4	0	6	1	4	0	0	0	0	0	1	0	0	0
TOTAL	241	12424	10663	811	148	1186	119	880	155	20	14	400	74	210	82	3	17
State Totals	2199	158801	122807	16549	2285	13333	2215	9386	2461	129	154	4661	989	1740	1380	23	159

CIVIL FILINGS AND DISPOSITIONS BY FISCAL YEAR

CIVIL ACTION CATEGORY	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
CIVIL Filings	11,785	12,027	11,201	10,547	10,753
Defaults	8,329	8,886	7,934	7,771	7,943
Trials & Disp. Hearings	1,890	2,643	2,703	2,716	2,947
DIVORCE Filings	3,340	3,206	3,448	3,373	3,659
Defaults	2,553	2,329	2,136	2,176	2,462
Trials and Hearings*	1,275	1,709	2,293	2,254	2,077
Granted (Calendar Yr.)	2,584	2,696	2,649	2,625	N/A
SMALL CLAIMS Filings	21,814	19,349	19,200	19,640	19,767
Defaults	18,596	16,885	16,381	17,328	15,698
Contested	2,862	2,623	2,475	2,491	2,438
MISCELLANEOUS Filings	8,037	9,325	9,351	9,970	10,166
Probate	4,022	4,190	4,169	4,189	4,000
Adoption	419	398	418	398	433
Mental Illness	474	820	836	879	971
Guardianship	656	719	672	737	708
Juvenile Petitions	2,466	3,198	3,256	3,767	4,054

* May include related hearings (child support, property, etc.).

Table 16. Civil Caseload Summary

Civil Caseload

Table 16 shows the caseload comparison for the various types of civil (that is, all non-criminal) cases during the past five fiscal years. In the first three major categories (civil contests, divorces, and small claims), filings and dispositions are reported and shown. In the miscellaneous categories, only filings are reported.

Under DIVORCE filings, the number of divorces and separations granted is provided by the Office of Vital Statistics, where the data are compiled on a calendar year basis and are less current than the fiscal year data.

The juvenile petitions reported under the miscellaneous heading are those that are filed and compiled through the offices of the clerks of court. There is, in addition to this, a separate computerized reporting system for juvenile filings which is processed through the court services offices.

Defaults include cases settled or dismissed without a disposition hearing. If there is a hearing, the case is reported as such.

Chart 11, which illustrates all civil actions, shows that the number of civil filings increased during FY 1990 after two years of decline. During the same time period, divorce, small claims and miscellaneous filings also show a small increase.

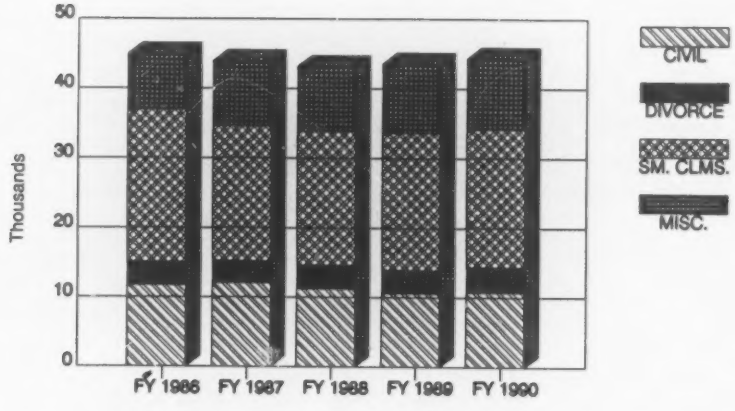


Chart 11. Civil Filings: Civil Actions, Divorce, Small Claims, Miscellaneous

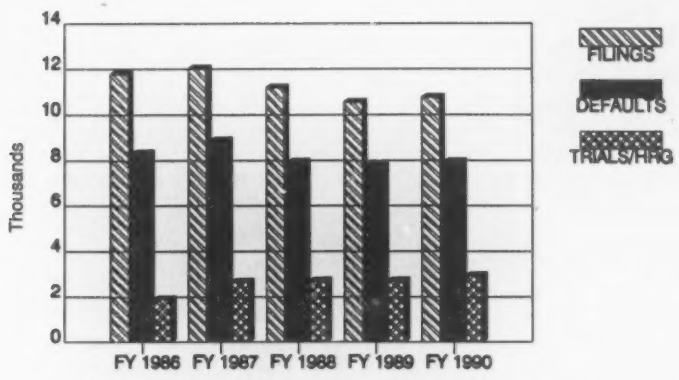


Chart 12. Civil Action Filings and Dispositions

Civil Actions

The number of civil lawsuit filings and default dispositions, as shown in Chart 12, after having demonstrated a decrease during the past two years, have increased slightly in 1990.

While filings and defaults have curved upward during the last year, case dispositions through trials and hearings--that is, contested cases--have remained fairly stable, rising slightly for the past four years. The increase in these dispositions from FY 1987 through FY 1989 indicates that, while the number of filings of civil lawsuits was decreasing, greater numbers of cases were being contested. This trend now seems to be at an end.

The number of small claims filings and dispositions (not included in the general civil contests, above) is shown in Chart 13. Filings have been increasing for the past two years after a three-year decline. Also, for the five-year period shown, defaults show no clear pattern and contested cases have been fairly stable.

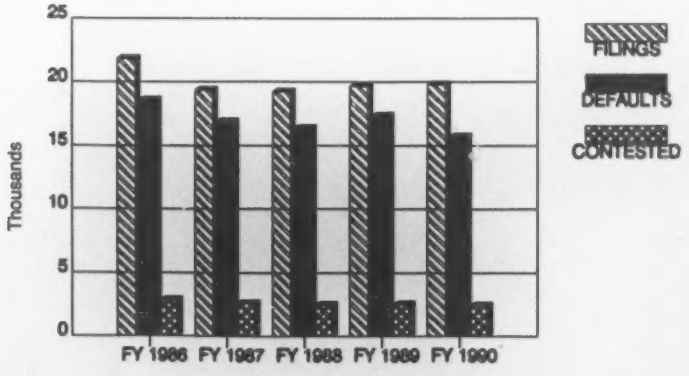


Chart 13. Small Claims Actions

Filings and dispositions in divorce, annulment, and separation cases, presented in chart 14, show somewhat mixed indicators. Up until FY 1988, there was a gradual increase in filings and contested dispositions, and a continuing decline in defaults (uncontested actions). This indicates that the workload for the courts was increasing in the area of divorce hearings during this time. For the past two years, filings are continuing to rise, but contested cases are declining and defaults are now increasing, so the judicial workload may now be stabilizing.

Divorce data, which are not included in the number of general civil lawsuits shown in Chart 12, include hearings on requests to modify child custody. These are reported as new filings if there has been no related divorce case previously filed.

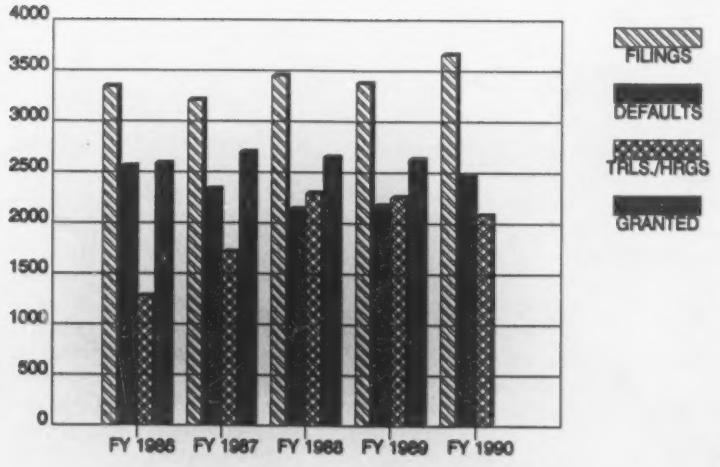


Chart 14. Marriage Dissolution Filings and Dispositions

CRIMINAL CASELOAD SUMMARY

CATEGORY	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
CLASS–TWO MISDEMEANOR					
Filings	146,635	157,624	154,652	160,068	158,801
Guilty Pleas	130,764	141,514	129,843	132,957	122,807
Dismissals	9,866	12,611	19,333	19,846	16,549
Trials	2,144	2,051	2,041	2,269	2,285
Suspended Impositions	510	530	386	334	N/A
Speeding Offenses	77,746	87,890	72,208	70,085	70,321
CLASS–ONE MISDEMEANOR					
Filings	14,392	14,292	12,986	13,528	13,333
Preliminary Hearings	3,168	2,836	2,553	2,452	2,215
Guilty Pleas	10,370	11,174	9,798	10,217	9,386
Dismissals	3,152	3,030	2,994	2,746	2,461
Trials	269	271	238	234	283
Suspended Impositions	656	698	461	435	N/A
DUI Offenses	8,907	9,598	8,153	7,119	6,910
FELONY					
Filings	3,673	3,907	3,884	3,967	4,661
Preliminary Hearings	1,027	936	1,055	954	989
Guilty Pleas	1,211	1,661	1,773	1,533	1,740
Dismissals	1,390	1,326	1,293	1,371	1,380
Trials	162	174	168	148	182
Suspended Impositions	452	499	521	537	N/A

Table 17. Criminal Caseload Summary

Criminal Caseload

Table 17 shows filings, and the most common dispositions, of criminal cases during the past five fiscal years. petty offenses, which are technically civil cases, are not included in the main category of class-two misdemeanor filings. Speeding violations (filings) are shown separately, but are included in all the preceding totals for class-two misdemeanors. Class-two filings have increased gradually over the five years previous to FY 1990, while speeding violations have been declining since 1987, when speeding offenses were over half of the class-two misdemeanor filings. All class-two misdemeanor violations decreased, and speeding offenses increased, slightly in FY 1990.

Class-two misdemeanors include most traffic offenses. Other (non-traffic) offenses in this category include disorderly conduct, certain drug possession charges, and bad check offenses involving $100 or less. A summary of traffic offenses and fines is presented in the table on page 48.

In the same manner as speeding offense statistics, the numbers of DUI filings shown in the table above are included in the filing and dispositional information for class-one misdemeanors. DUI violations here include both first and second time offenders as charged by the state's attorney. Third and subsequent DUI offense are felonies. (Table 18 contains complete DUI data).

Selected information from the table above, comparing data for the period of five fiscal years, is shown on the following charts.

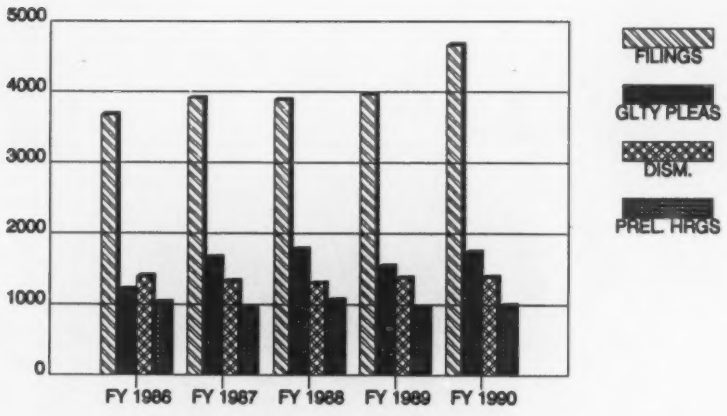


Chart 15. Felony Caseload

Felony Cases

The criminal caseload summary in Chart 15 shows a significant increase in felony filings in fiscal year 1990 after a small increase in FY 1989. There is also an increase in felony dismissals for the second consecutive year. Guilty pleas for felonies are increasing again after a drop in FY 1989. Because of statistical peculiarities, a number of felony filings are duplicated in the system, resulting in overall inflation of filings by about 15%.

The comparison of trials for felony and class-one misdemeanor cases shown in Chart 16 indicates that both the felony and class-one case trials have increased substantially this year, to the highest point in the five-year period shown.

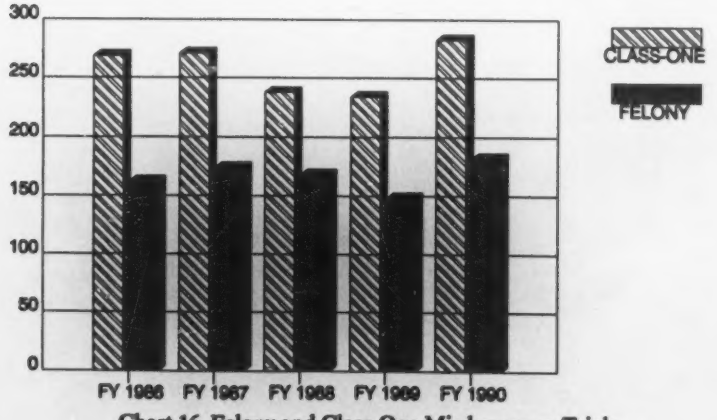


Chart 16. Felony and Class-One Misdemeanor Trials

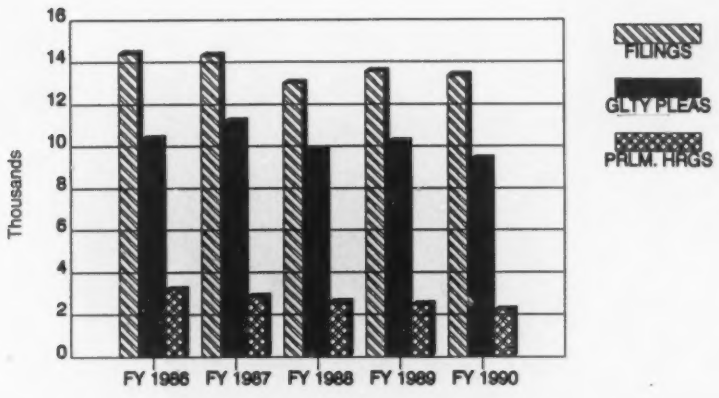


Chart 17. Class-One Misdemeanor Caseload

Chart 17 shows a slight drop in filings and in guilty pleas for class-one misdemeanors during FY 1990. This decline reflects a continuation of a trend that, with the exception of FY 1989, has been evident for the past several years in class-one violations. It is also reflected in the chart below.

In chart 18 the numbers indicate that DUI class-one filings have dropped in FY 1990 for the fourth consecutive year. While class-one misdemeanor violations generally are decreasing, DUI class-one offenses are declining at a sharper rate. The result of this is that DUI arrests represent a smaller portion of total class-one offenses than in years past. In 1987, for example, DUI offenses accounted for 67% of class-one misdemeanor filings; This year, DUI class-one violations represent only 52% of the total.

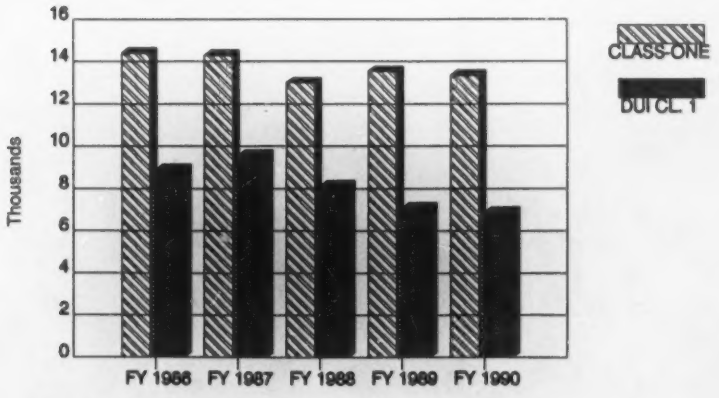


Chart 18. Class-One Misdemeanor and DUI Filings

DUI VIOLATIONS SUMMARY

	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
FILINGS					
DUI One	7475	7971	6768	5918	5973
DUI Two	1432	1627	1385	1201	937
DUI Three	491	632	627	579	589
TOTAL	9398	10230	8780	7698	7499
GUILTY PLEAS					
DUI One	4832	5268	4490	4123	4539
DUI Two	845	927	741	664	746
DUI Three	167	206	203	218	346
TOTAL	5844	6401	5434	5005	5631
DISMISSALS					
DUI One	1809	2052	1863	1384	1561
DUI Two	470	577	523	470	219
DUI Three	178	205	206	188	208
TOTAL	2457	2834	2592	2042	1988
SUSPENDED IMPOSITION					
DUI One	430	430	183	217	256
DUI Two	31	48	47	20	22
DUI Three	54	46	64	47	40
TOTAL	515	524	294	284	318
CONVICTIONS AT TRIAL					
DUI One	147	117	105	113	71
DUI Two	24	47	37	23	25
DUI Three	15	25	24	15	19
TOTAL	186	189	166	151	115
ACQUITTALS AT TRIAL					
DUI One	40	52	30	30	31
DUI Two	8	14	13	9	11
DUI Three	6	17	10	7	4
TOTAL	54	83	53	46	46

Table 18. DUI Violations Summary

DUI Caseload

The majority of class-one misdemeanor cases are violations of SDCL chapter 32-23, referred to as DUI (driving under the influence). Those filings, and the most common dispositions of those filings, for fiscal years 1986 through 1990, are shown on Table 18. Selected segments of the data on that table are shown in the comparative bar charts that follow.

In the table, first and second offense DUI violations (DUI one and DUI two) are class-one misdemeanors, third and subsequent offenses (DUI three) are felonies.

Examination of the information in Table 18 shows that the total filings for all DUI offenses decreased during the year, but that all of this decrease occurred in second-offense violations. The first offense and third-offense categories actually increased during the year.

Following the sharp decline in 1988 of suspended impositions of sentence (discussed on page 46), this type of disposition for first offense DUI has increased in 1989 by about 16%, and again in 1990. Suspended impositions of sentence for second and third-offense DUI, have remained fairly stable, so that the total for the category shows an overall increase.

Charts 19 and 20 present a graphic summary of total DUI offenses for FY 1988. In Chart 19, filings are down to their lowest point in the past five years. Conversely, guilty pleas are up and, as shown on chart 20, trials are continuing a four-year decline.

Of the total number of DUI dismissals shown for FY 1989, about 39% are the result of negotiations for the defendant to plead guilty to a lesser charge (usually reckless driving, which is also a class-one misdemeanor). This happens if the prosecutor believes that the state's evidence may not be adequate for a DUI conviction and he is willing to save the state the expense of a more time-consuming prosecution in return for the defendant's guilty plea to the lesser charge.

Conviction for more than one reckless driving violation within a one-year period will result in suspension of the violator's driving license for a minimum of thirty days.

Ratio of dismissals to filings for DUI cases is lowest in the fifth (22%) and eighth (16%) circuits. The eighth circuit also has the highest ratio of suspended impositions to filings (17%).

Chart 20 shows a comparison of the remaining dispositions from Table 18, which are suspended impositions of sentence and trials, for all DUI offenses. In this chart, suspended impositions show a sudden increase after three years of decline, and trials continue to decrease.

Table 19 presents DUI filings and dispositions for Fiscal Year 1990, by county and circuit. The second and sixth circuits show an increase in filings from the previous fiscal year, but the remainig circuits all show decreases.

Although total suspended impositions of sentence for DUI offenses are lower state-wide than in the previous fiscal year, they actually increased in the first, seventh and eighth circuits.

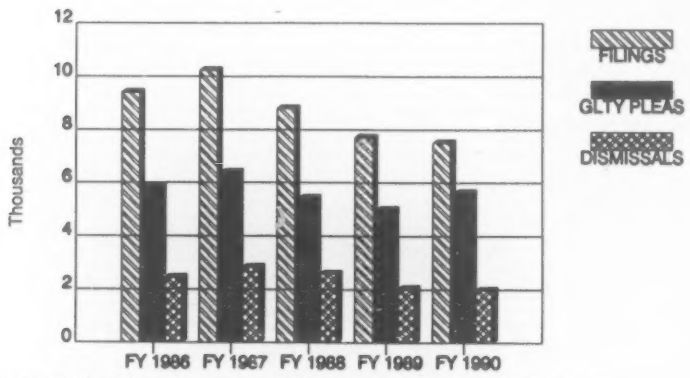


Chart 19. DUI Violations Summary, Filings, Guilty Pleas, and Dismissals

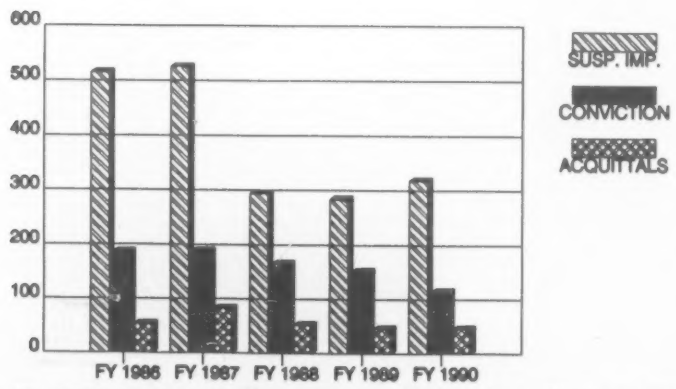


Chart 20. DUI Violations Summary, Suspended Impositions of Sentence and Trials

DUI DISPOSITIONS BY COUNTY AND CIRCUIT

COUNTIES	Total	Glty Pleas	Dis-mis-sals	Trials Ac-quit	Trials Con-vict	Susp. Imp.*
1st Circuit						
Bon Homme	23	12	1	0	5	1
Charles Mix	76	60	24	1	1	2
Clay	118	97	17	0	1	11
Douglas	10	2	1	0	3	0
Hutchinson	20	17	5	0	0	0
Lincoln	118	74	60	0	0	0
Turner	38	23	17	0	2	0
Union	158	118	46	0	2	7
Yankton	231	184	65	0	1	5
TOTAL	792	587	236	1	15	26
2nd Circuit						
Minnehaha	1942	1428	651	15	30	6
3rd Circuit						
Beadle	131	101	28	0	9	0
Brookings	185	174	15	0	6	3
Clark	19	11	11	0	0	0
Codington	158	129	30	0	5	6
Deuel	26	25	5	1	0	1
Grant	50	46	9	0	0	0
Hamlin	17	13	4	0	0	0
Hand	16	12	6	0	0	0
Kingsbury	18	13	2	0	1	0
TOTAL	620	524	110	1	21	10
4th Circuit						
Aurora	16	12	3	0	0	0
Brule	80	47	40	1	0	0
Buffalo	1	1	0	0	0	0
Davison	107	99	21	0	0	4
Hanson	13	11	8	1	0	0
Jerauld	11	7	3	0	0	0
Lake	73	67	8	3	1	1
McCook	23	17	4	0	0	2
Miner	21	18	8	0	1	0
Moody	77	69	11	0	1	0
Sanborn	12	7	2	0	1	2
TOTAL	434	355	108	5	4	9
State Totals	7499	5631	1988	46	115	318

COUNTIES	Total	Glty Pleas	Dis-mis-sals	Trials Ac-quit	Trials Con-vict	Susp. Imp.*
5th Circuit						
Brown	439	312	129	0	2	13
Campbell	5	2	3	0	0	0
Day	55	50	6	0	0	2
Edmunds	15	14	1	0	0	0
Faulk	5	5	2	0	0	0
Marshall	57	43	12	0	0	2
McPherson	3	3	0	0	0	0
Roberts	116	117	6	0	2	1
Spink	50	37	11	0	0	4
Walworth	89	73	11	0	0	7
TOTAL	834	656	181	0	4	29
Sixth Ckt.						
Bennett	68	53	10	1	0	0
Gregory	17	13	13	0	0	0
Haakon	17	16	2	0	0	0
Hughes	267	222	82	1	4	6
Hyde	4	3	4	1	0	0
Jackson	72	43	9	0	2	1
Jones	13	11	2	1	0	0
Lyman	38	24	8	0	0	0
Mellette	34	28	3	0	0	0
Potter	27	22	11	0	0	0
Stanley	40	23	23	0	2	0
Sully	6	7	0	0	0	0
Todd	5	4	3	0	0	0
Tripp	76	64	23	0	4	0
TOTAL	684	533	193	4	12	7
7th Circuit						
Custer	82	52	28	1	1	5
Fall River	109	90	23	1	0	1
Pennington	117	82	19	2	8	5
Rapid City	1081	747	307	9	13	80
TOTAL	1389	971	377	13	22	91
8th Circuit						
Butte	92	69	19	0	3	19
Corson	10	5	1	0	0	7
Dewey	17	10	6	0	0	1
Harding	1	1	0	0	0	0
Lawrence	389	270	46	5	2	82
Meade	271	203	56	2	2	27
Perkins	20	19	3	0	0	2
Ziebach	4	0	1	0	0	2
TOTAL	804	577	132	7	7	140

* Suspended Impositions of Sentence

Table 19. DUI Filings and Dispositions By County

Suspended Impositions

After a defendant's first conviction, either by guilty plea or at trial, the judge may decide to suspend the imposition of sentence according to SDCL 23A-27-13 and -14. These laws permit the judge, if he decides that it is in the interest of justice and the good of the community, to require the defendant to fulfill certain conditions, including the possibility of both a fine and jailtime, after which the defendant is discharged and the court orders that his record be sealed.

According to SDCL 23A-27-17, "the effect of such order is to restore such person, in the contemplation of the law, to the status he occupied before his arrest...." For general legal purposes, the sealing of the record means it is as though the defendant was never convicted, with the following exception.

According to SDCL 23A-27-16, a record is kept by the state's Division of Criminal Investigation "solely for use by law enforcement agencies, prosecuting attorneys, and courts in sentencing such person for subsequent offenses."

The suspended imposition of sentence is provided to help those citizens who have been convicted of their first crime, but are sufficiently law-abiding and responsible, in the judgment of the court, that they should be reinstated fully after a reasonable punishment.
According to SDCL 23A-27-14, the procedure involved in the suspended imposition of sentence "may occur only once with respect to any person."

The indicators on chart 21 show that there has been a gradual steady increase in the number of suspended impositions of sentence rendered for felonies over the five year period from 1985 through 1989. (Data for FY 1990 were not available at the time of printing.) In the other two classes of criminal offense, class-one and class-two misdemeanors, there has been a second year of decrease following three years of increase.

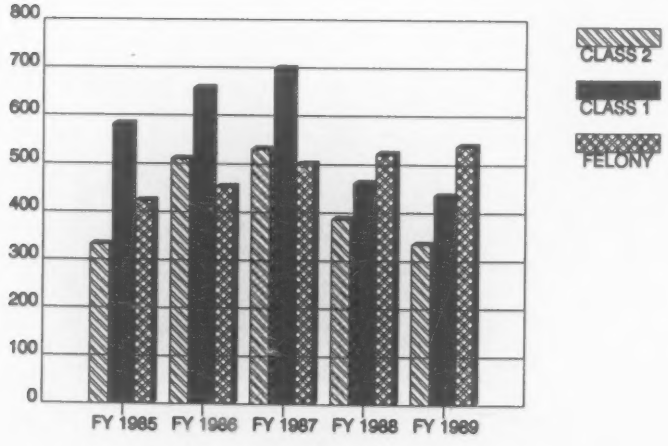


Chart 21. Suspended Imposition of Sentence

Class-Two Misdemeanors

Chart 22 shows that the number of class-two misdemeanor filings and guilty pleas this year are declining slightly after two years of increase. The filings have remained essentially stable over the past four years. Chart 23 shows that dismissals of class-two violations decreased after a four-year increase. The number of trials increased slightly.

The sharp increase in class-two mismisdemeanor dismissals since FY 1988 has declined this year. This reflects the high number of "financial responsibility" arrests (see Table 20) that have been dismissed during the past two years.

In these cases, the defendant who is stopped by a law-enforcement officer for a traffic violation must produce proof of financial responsibility (usually an auto insurance card). If the driver has no such proof in the vehicle, he is given a citation for failure to show proof of financial responsibility. Later, if the defendant can produce such proof for the clerk-magistrate, the charge is dismissed. There were over 10,000 of these dismissals during FY 90.

Some other class-two misdemeanor dismissals are the result of the removal from active records of those traffic cases in which the defendant failed to appear or pay the fine after a period of six months.

In those cases, the defendant's driver's license is suspended by the Department of Driver Improvement and the case is removed from active court files. In order to have his license reinstated, the defendant must first have the court issue an order to reinstate the license. Then, he must pay a substantial cash penalty to the Department of Commerce of Regulation. The defendant also faces the possibility of an additional criminal charge for his failure to appear in court on the original violation.

Table 20 lists class-two misdemeanor traffic violations for the fiscal year. The offenses shown in the detailed list include those with fifty arrests or more. Those showing an SDCL prefix of 99 are municipal violations.

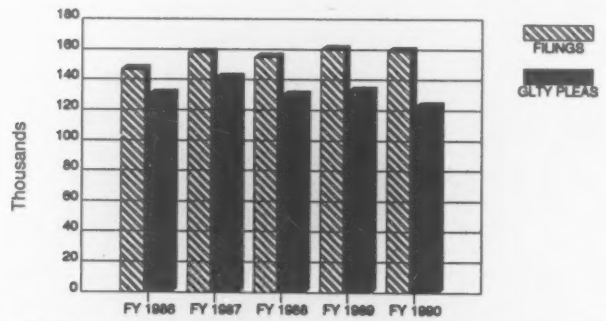


Chart 22. Class-Two Misdemeanor Caseload Filings and Guilty Pleas

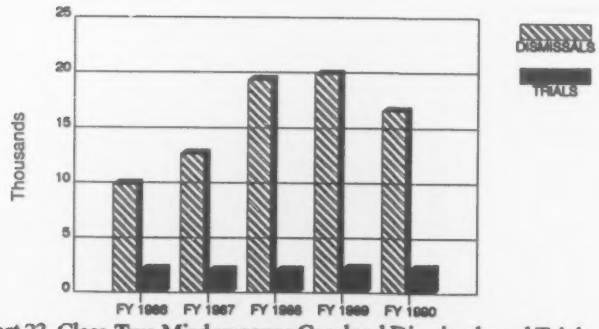


Chart 23. Class-Two Misdemeanor Caseload Dismissals and Trials

CLASS-TWO MISDEMEANOR AND PETTY OFFENSE TRAFFIC VIOLATION SUMMARY FY 1990

Offense	*SDCL Code*	*Arrests*	*Total Fine*	*Offense*	*SDCL Code*	*Arrests*	*Total Fine*
Speeding	32-25-11.2	70,321	$2,935,352	Wrong-Way One-Way	99-1-40	226	$6,553
Financial Respon-sibility	32-35-113	15,068	$157,453	Illegal Median Crossing	32-26-9	219	$9,692
No Driver's License	32-12-22	5,286	$135,407	Minor without Helmet	32-20-4	185	$3,950
Parking, Standing	99-1-4	5,179	$57,459	Moving without Permit	32-9-23.	176	$15,970
Open Container	32-1-9.1	4,165	$132,422	Reckless Driving	99-1-41	160	$7,270
Suspended License	32-12-65	3,461	$129,702	Weigh Station	32-33-17	154	$13,075
Overweight on Axle	32-22-16	3,356	$752,879	Trailer Chains	32-19-9	150	$5,365
Failure to Stop	32-29-2.1	3,149	$121,186	Stop at Accident	32-34-4	148	$6,192
Log Book Violations	49-28-63	2,198	$106,820	Comply with Officer	32-21-30	141	$3,090
No license Plates	32-5-98	2,137	$68,114	Stop at Driveway	99-1-45	140	$5,540
Log Book / Other	49-28A-3	2,056	$101,713	Illegal Passing	32-26-37	137	$6,355
Flashing Red Light	32-28-6	1,614	$53,410	Deviating	99-1-39	133	$5,430
Disobey Traffic Sign	99-1-11	1,510	$56,868	Littering	34A-7-7	117	$4,605
Warning Ticket	99-1-2	1,152	$26,150	Illegal Lane Change	32-26-6	117	$3,393
Exhibition Driving	99-1-52	1,038	$32,734	Handlebar Height	32-20-3	116	$1,746
Careless Driving	32-24-8	953	$43,454	Exhibition Driving	99-1-9	115	$3,925
Careless Driving	99-1-53	925	$40,861	Fail to Yield	99-1-60	115	$4,260
Illegal Turn	32-26-18.1	892	$28,610	Registration Required	32-10-34	115	$4,680
Child Seat Restraint	32-37-1	828	$6,375	Fail to Stop-Accident	32-34-6	109	$3,930
Exhibition Driving	32-24-9	742	$18,450	Unauthorized Driver	32-12-72	105	$3,385
Follow too Closely	32-26-40	686	$23,705	Illegal U-Turn	99-1-54	96	$2,490
Accident Reporting	32-34-7	593	$30,921	Racing on Highway	32-25-23	95	$4,829
Fail to Stop	99-1-57	558	$19,029	Overwidth Vehicle	32-22-3	87	$8,045
Overdriving Road Conditions	32-25-3	517	$15,052	Registration in Vehicle	32-5-91	86	$910
				Rear Lamps Required	32-17-8	86	$1,720
No Motorcycle Driver's License	32-20-2	514	$14,100	Disobey Emergency Order	99-2-23	81	$1,180
				No Yield - Left Turn	32-26-19	79	$2,528
Failure to Yield	32-29-3	450	$16,320	Drive Improper Vehicle	32-21-27	78	$2,891
License Possession*	32-12-39	435	$1,975	Muffler Cut-out	32-15-17	75	$2,085
Unauth. use of vehicle	32-12-74	419	$11,300	Other licensing viol.	32-5-105	72	$3,355
Illegal Passing	32-26-35	381	$14,105	Careless Driving	99-1-10	70	$3,625
Yield Right of Way	32-26-13	378	$13,577	No valid driver's lic.	99-1-67	70	$2,462
Stop for School Bus	32-32-6	329	$18,500	Lamps Properly Lit	32-17-4	68	$995
Oversize/Overweight	32-22-52	327	$29,943	No Commercial License	32-9-7	65	$5,465
Turn on Red, No Stop	99-1-51	320	$11,110	Drive with Metal Studs	32-19-3	58	$450
Promise to Appear	32-33-2	298	$4,631	No Used Vehicle Title	32-3-7	56	$680
Eye Protection*	32-20-4.1	285	$3,225	Motorcycle Muffler	32-20-5	51	$735
Unsafe driving	99-1-16	283	$11,355	Fail to Dim Headlights	32-17-7	50	$900
Flashing Stop Light	99-1-50	278	$9,320	PUC Regulations	49-28-33	50	$2,325
Overweight Truck	32-9-14	251	$24,968				
Comp Certificate	32-9-14	251	$20,565	Total of this List		139,044	$5,507,987
Illegal U-Turn	32-26-25	250	$7,100				
Munic. Accident Report	99-1-17	245	$9,553	Other Class-Two and Petty			
Wrong Side of Road	32-26-1	243	$6,525	Offense Traffic Violations		1,623	$70,149
Substitute Plates	32-5-103	241	$10,818				
Unsafe Backing	32-30-20	231	$8,795	State Total		140,667	$5,578,136

* Petty Offenses

Table 20. Traffic Violation Summary

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